THE ATTOVRNEYS ACADEMY:

OR,

The manner and Forme of proceeding Practically, vpon any Suite, Plaint or Action whatsoeuer, in any Court of Record whatsoeuer within this Kingdome.

ESPECIALLY,

In the great Courts of WESTMINSTER, to whose motion all other Courts of Law or Equitie; as well those of the two Prouinciall Counsails, Those of Guild Hall *London*; as *Those of like Cities and Townes Corporate*, And all other of Record are dismally moued.

With the Modern and most useful Fees of the Officers and Ministers of such Courts.

The third Impression Corrected and inlarged with additions of the Verge Court and others.

Publisht by his MAIESTIES speciall Priuiledge,

AND

Intended for the publike benefit of all His Subjects.

Summum hominis bonum, bonus ex hac vita exitus.

THO: POVVEL.
Londino. Cambriensis.

LONDON
Printed for *Benjamin Fisher*, and are to be sold at his Shop in *Aldersgate*-street. at the signe of the *Talbot*.
1630.

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And all other Courts Regal and Seigniory whatsoeuer.

With the Mode and manner of the Seuerall Offices and Officers thereto belonging, their Fees and Duties, and all other Circumstances.

Published by his Maiesties Speciall Priuiledge.

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Intended for the publique benefit of all his Subiects.

Seruatus Dominis Lucrum, Seruorum Damnum.

LONDON,

Printed for Thomas Pierrepont, and are to be sold at his Shop in Chancery-lane, ouer against the Rolls.

TO

THE RIGHT REVEREND IN GOD, RIGHT HONORABLE IN his KING, Right serviceable in his Country, *and Right able of himselfe*; IOHN *Lord Bishop of* LINCOLNE, *and Lord Keeper of the Great Seale* of ENGLAND.

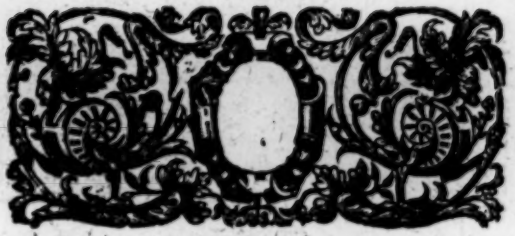
I See the Storme a comming; whether shall I
Seeke Covert in the Mountaine, or the valley,
Or else betake me to the silent Streame,
And let the Tempest burst, and spit his spleane
Vpon the Earth: So I be safe and sauen,
While I shall ride at Anchor in the Hauen:
Alas, the fatall Sister-hood (in sport)
Will there betray thee; For within the Port,
Shipwracke hath disappoynted and disgrac't
The Prouerbe of *Long looks for comes at last*,
Then will I launch into the very Maine
To see it *Neptunes* deitie will dayne

To fence and sling his Trident on my head,
By power whereof all Storms are lastored.
Which, if he doe deny, my comfort is,
My Shipwracke shall haue noble Witnesses,
I sinke not in a Ditch, nor by the Shore,
But dye and lye at *Neptunes* Palace doore.
'Tis thou alone that bear'st the Triple Mace,
Canst, in the very speed of all their Chase,
Restraine their pursuite, doe but keepe in awe
Their nimble, neate *Nereides* of the Law;
Charge *Æolus* (as he does honour thee)
Hee doe not dis-imbulke his cheekes at me.
I haue done nothing to offend thy Traine,
Rauisht *Amemone* (as the Poets faine)
Nor sought to rob the Sea-Gods bed of Corall,
I meane Lawes mysteries (for that's the Moral.)
If this be so, vouchsafe me thy protection,
That I may bring this worke vnto perfection.
Then will I sing thy Fortune and thy Fame,
And proue that *Williams* fro the *Troians* came;
Shew, where his Ancestors long since did build
A Seat, which hitherto their name haue fill'd.
Now, may that Name and Honour ne're expire;
But in a melting Firmament of Fire.

Lutem
In manus Victoriæ.

THOMAS POVVELL.

TO



TO

TRVE NOBILITY, AND TRYDE LEARNING,

BEHOLDEN

To no Mountaine for Eminence,

nor Supportment for Height, FRANCIS, Lord *Verulam*, and Viſcount St. *Albanes*.

O Giue me leaue to pull the Curtaine by,
That clouds thy Worth in ſuch obſcurity,
Good *Seneca*, ſtay but a while thy bleeding,
T'accept what I receiued at thy Reading:
Here I preſent it in a ſolemne ſtrayne,
And thus I pluckt the Curtayne backe againe.

The ſame

THOMAS POWELL.

A IN

T. N.

In Commendation of this Worke.

THis good, 'tis common good, what would you more?
It will be more good, when there is more store.

——*Pueri, Sacer locus est, extra mite.*

TO

To the Gentle Reader.

Sta, Lege, Plura,
Pro me (Precor) ora.

FRIENDLY Reader, *thy Religion and Zeale to common good, may ſomewhat ſtead but not ſecure me; for if thou beeſt but a temperate man in this age, wherein the Planets themſelues are ſo extreamely diſtempered, the Ayre is ſo ſicke of their diſeaſe, and the lower bodies doe all complaine, and are ſhaken with the ſame Feauer: thy calme and pliable conſtitution.*

Vnleſſe thou be ſuperlatiue and ſuperſtitious in the faith and profeſſion of a publicke Weale, thou ſhalt be

too too innerued to meete the priuy malice of thoſe, who are onely ſtudious of priuate profit : Or to make vp mee and my good meaning to the generall aduantage.

Thou mayeſt eaſily conceiue, that my ayme is not levelled at any Lucratiue Land-marke, ſeeing no endeauour can afford a more mercileſſe and immercenary returne then this : to which, the pitty of my poore Country-men did empreſſe and ſend me foorth in the firſt ranke, to be expoſed vnto the moſt danger : Which, with all other difficulties in the Attempt, I haue receiued with the one hand, and caſt away with the other ; I haue euer held it more honour and happineſſe to hurle my ſelfe head-long into the flaming Temple, then to inſafe me in the midſt of the mutinous Schimeonites.

1. *Indeed, I muſt confeſſe, that my ſelfe was the moſt vnworthy and vnable of many to vndergoe this Taske.*

2. *That I haue waded thus farre, without calling of thoſe of the Myſtery to my guidance.*

3. *It may be, that I haue ſtept beſide the common Cauſeway, and treſpaſſed* pedibus ambulando *vpon ſome mens incloſure.*

4. *Perhaps I haue ſometimes erred, and miſ-ſet the Needle of my Compaſſe.*

5. *And admit I haue not trauelled ſo farre as the Seas offered Paſſage, and Paſſe-ports vnto me.*

1. *All this is eaſily anſwered : For you muſt vnderſtand, that the neceſſity of the Voyage did imbarke*

barke me, when in all this age past before vs, no one (how able soeuer) would vndergoe the Discouery: None would, or will preferre the Prayer of posterity, before the purchase of the present.

2. *I knew not whom to trust or call to Guide, lest I should betray the whole Voyage.*

3. *Beyond the Pole of Property, I care not in what Streame my Keele leaues her dinted Impression.*

4. *Beyond the Line, the old Compasse is to be laid by, and the new one is to be vsed.*

5. *I haue trauelled as farre as the victuall and Tackle, which I was able to prouide with my ready flocke would beare me. And it shall be held amongst all well-affected English Seafarers, worthy the hazard, charge, and time bestowed vpon it. In regard that I haue in this leading discouery, set forth where the way lies for farther Nauigation, to driue a* trade *euen to the vtmost confines of those parts, and to make perfect and perpetuall Commerce betweene vs and th m.*

The drie are my endeauours for the setling and establishing of a certain course of compliance betweene the Officers and Ministers of our Lawes and their Clients, which would distinguish and set apart the vnlearned and vnconscionable crue, from those whose endowments of acquision, and indeerements of conscience, and innated composition speakes them farre more worthy.

For my faults of deficience, I am not ashamed to inuite the supply of those who haue the aduantage of

breeding in their particular Offices on their ſides, if they will afford it.

For my defaults of Inſufficiency, I doe not bluſh at them. Bernardus non videt omnia: *He that knows moſt in the Practice of the* Lawes, *knowes moſt how impoſſible it is with the ſingle quality of any one man liuing, to reduce the infinite differing* parcels of this account, *into a* perfect and certaine Summe *at the firſt collation or calculation thereof.*

For my Printers faults of all kinds, I giue him kindly to your mercy.

Would you haue me now to leaue all vndone, becauſe ſome part cannot be done to *perfection* at the firſt?

Wil you *blame* me for thoſe few imperfect *quidlibets*, without whoſe company and fellowſhip ſo many vſefull *quodlibets* with which the *enſuing* Tractate is forced, had neuer beene *able to hold out* ſo tedious a Iourney.

Surely, whatſoeuer you be that ſhall doe it, *I muſt tell you, that the* Million Multitude *will repute and report You for a* ſecond Alexander, *not the* Conquerour, *but the* Copper-Smith, *not famous for* Triumph, *but for* Trade: *Not* Alexander *who in his greatneſſe would bee* Worſhipped *as a God himſelfe, but* Alexander *who in his* leather Apron *would haue the very* Puppits *which his hand roughhued, draw an* adoration *and* reuerence *amongſt the People.*

Good

To the Reader.

Good Alexander, *do not feare thy trading,*
Peruſe me not, though thou deny thine ayding.
I aske but aide of Patience, *and of* Time,
To frame, *and* finiſh this poore Worke *of mine;*
To make, *to* mend, *to* pertect, *and to* poliſh,
What Alexanders *wiſedome thinkes ſo fooliſh.*

To the reſt, I reſt

As icalous of your loues,
as zealous your liking.

THO. POWELL.

THE

The Attournies Academy.

The manner of proceeding in the CHANCERIE.

THE CHANCERIE.

NOtwithstanding the practise heere before this time hath bin, That no *Sub pœna* should be sued foorth of the Court of *Chancery*, without a Bill of Complaint first exhibited. Yet laterly, for the ease of all Suitors and Subiects, it hath beene thought good, that euery man may haue a *Sub pœna* out of the same Court, without any Bill first exhibited.

And this is called a *Sub pœna ad Respondendum.*

This *Sub pœna* is the leading Processe of this Court, by which the party Defendant against whom the Complaint is intended, is summoned and required to appeare, and make answere to the Complaynant, vnder a certaine paine, and at a certaine to come.

The dayes of *Returne* here, are the vsuall *Returnes*, as in the ordinary *Almanache*, or else a *Sub pœna* may be returnable at a certain day, after any the sayd vsuall *Returnes*, or the great Feast dayes, from whence the *Returnes* take their denomination. So that you must adde (*Prox.*) in place where cause shall require.

As if the Feast day be to come: then it must be *Prox. futur. in vnum mensem.*

But if the Feast day be past, then it must bee *a die Paschæ in vnum mensem prox. futur.*

And the like to other *Returnes*, before or after other Feast dayes.

Where note what time you haue for exhibiting of your Bill after the day of *Returne* prefixed in your Writ of *Sub pœna*: If it be returnable vpon a generall *Returne* day as *Crastin. Octab's, Tres, Mensem, &c.* After such a Feast, then you haue time to put in your Bill vntill the day next following, the fourth day following euery of the said *Returnes*. And you must Account the *Returne* day, and the fourth day after it, for

two

two of the ſaid foure Dayes.

But if the *Sub Pœna* bee returnable on ſuch a certaine day of the Month. Then your Bill mu ſt be put in the next after it before dinner.

And howſoeuer the *Sub Pœna* bee returnable, if it be but ſerued on the ſame day, whereon it is Returnable before noone, & the riſing of the Court of *Chancery*, it is a good ſeruing, and binds the Defendant ſo ſerued, to an appeara ce withall conuenient ſpeed.

And if the Bill be not Filed on the next Day after the ſaid fourth day, after a generall Returne, or next after a day certaine reſpectiuely: The Defendants Attourney) hauing the *Sub pœna* or Label thereof, wherewith the Defendant was ſerued; or an Oath that the *Sub pœna* was ſerued) hee may get fitting coſts in euery ſuch caſe.

When the Defendant hath ſo got coſts, hee may haue a *Sub pœna* whereby to command the Complainant, preſently vpon the ſight therof, to pay the Defendant or the bringer therof, the ſaid coſts, (as afore-ſaid.) And if the Complaynant doe refuſe to pay the ſayd Coſts, accordingly: Then the Defendant may vpon *Affidauit* made, that the *Sub pœna* for coſts was ſerued, haue an Attachment directed to the Sheriffe of the County, to attach the Complaynant therefore.

And vppon returne made by the Sheriffe, that

the Complainant cannot bee found, an Attachment with Proclamation may bee sued foorth against the Complainant.

And that Proclamation being likewise returned by the Sheriffe (as afore-said.)

Then a Commission of Rebellion may be sued forth against the Complainant.

But on the contrary side, if the Complainant doe put in his Bill, and the Defendant appeareth not the next day after the costs Day.

Then the Complainat (vpon Oath made that the Defendant was serued with a *Subpana*) may haue an Attachment, and farther Processe vppon like Returnes, (as in case afore-sayd.)

Where note, that the party which maketh Oath that he serued the *Subpana*; Or that the *Subpana* was serued, must sweare as followeth.

That hee deliuered the *Subpana* to the Defendant.

Or hee shewed the *Subpana* to the Defendant, and deliuered to him a note of the day of his appearance.

Or hee left the *Subpana* at the Defendants dwelling house, or lodging, where the Defendant most abideth.

Or hee shewed the *Subpana* at the Defendants dwelling House, to his wife, or some of his Seruants, and there left the *Label* of the *Subpana*, or a note of the day of his Appearance.

Or

Or hee muſt ſweare that hee heard the Defendant confeſſe that hee was ſerued with *Sub pœna*.

Note, that if the party ſerued with any ſuch *Sub pœna* do wrong or abuſe the party who ſerued it, for the ſeruing thereof, or vſeth any Words of contempt, or ſlighting of his Maieſties ſaid Writ. He is puniſhable for the ſame, by impriſonment in the Fleete or otherwiſe, at the Lord Keepers diſcretion.

And if the Defendant doe appeare within the time limited:

Then the Complainants Attourney may giue vnto the Defendants Attourney, on the ſaid day after the Coſts day, a Rule, that the Defendant doe make anſwere to the Complainants Bill, by the ſame day ſeuen-night then next to come. This Rule and day giuen, muſt bee entred into the Regiſter.

And if the Defendant doe not anſwere by the prefixed day ſo entred.

Or if hee doe not otherwiſe ſatisfie the Court by ſufficient cauſe, and occaſion of the delay.

Then the Complains Attourney may take foorth an Attachment againſt the Defendant.

The Cause whereby the Defendant may satisfie the Court of the said delay in answere, are these for the most part. (viz.)

HEe cannot make direct Answere, without sight of his Euidences of Writings which are in the Country.

Or hee cannot Answere without conference had, first with some person named in the sayd Bill.

Or with some Person whom the matter toucheth.

Or that the Defendant is not able to Trauaile.

Of euery which reasons aforesaid, Oath must be made.

AND vppon Oath so made:

Or by an especiall motion made for this purpose;

The Defendants Attourney may procure a *Dedimus potestatem*, directed to certaine Commissioners in the Country, to take the Defendants answere there.

And the cause whereupon this *Dedimus potestatem* is granted, must be entred into the Register.

So likewise in case where the Defendant doth not answere within the limited time, and an Attachment is therefore awarded against him: The Clerke which maketh the same Attachmen, must enter it into the Register; shewing the cause wherefore it was granted.

But if no day be given to the Defendant to answer: Then the Defendant hath liberty to answer at any time during the Terme.

And if hee doe it not within that time: Then an Attachment may be sued foorth against him of course. And the same, with the cause thereof, must be entred into the Register: (*viz.*) That the Defendant appeared, and departed without answer.

If the *Subpœna* be returnable so neere vnto the end of the Terme, that there cannot be a day given to the Defendant to answer, hee must at his perill answer by the same day seauen-night following the day of his appearance, although it be in the Vacation. For the *Chancery* is alwayes open. It is *Officina semper aperta.*

If the *Subpœna* be Returnable on the last *Returne* day of the Terme it selfe: Then the Defendant is at Liberty to appeare the first Returne of the Terme following.

But if it be a day certaine, although the same bee the last day but one of the Terme, yet the Defendant

Defendant must Appeare, and answere by that Day seuen-night next following, the sayd Appearance.

If the *Sub pœna* bee Returnable immediately, though it be serued on the last day of the Terme, so it be serued before the rising of the Court: the Defendant must also appeare and answere, by the same day seuen-night.

And if the Defendant make Oath, that hee cannot answere without Writings, &c. or conference with some other person: Or if hee haue a *Dedimus potestatem*, and Commission to make his answere: Hee must at his perill, procure his answere to be put in, before the day after the first Costs day of the next Terme following, vnlesse it be Trinity Terme: And then, and in such case, it must be put in the second Day, or else the Complainants Attourney may vpon such Default, make an Attachment against the Defendant, and enter the same into the Register, for that hee hath not answered by the Day prefixed.

Or in other case, that he appeared and departed without answere: Or otherwise, that hee did not returne the *dedimus potestatem* at the day prefixed, &c. and as the case shall require.

And though the custome hath bin heretofore, that by reason that the Defendant may abuse this liberty giuen to him (as afore-said) in delaying the Complaynant by *Demurrer* in Law: No such

such *Demurrer* should bee allowed; yet is now permitted, That the Defendant may, by his Answere returned by *Dedimus Potestatem*, *Demurre* in Law: For that hee, not appearing in person at the first, his Counsaile in his absence may not *Demurre*, though the Complainants Bill bee insufficient: Because euery *Demurrer* must bee Deliuered into the Court by the Defendant in proper Person, and not by his Attourney, except in Cases where the Defendant is not able to Appeare in Person. In which Cases it is used, That the Defendant may deliuer his *Demurrer* to the Commissioners: Who, though they be by the expresse Words of their Commission, to receiue the Defendants answere vppon his Oath: Yet, if the Defendant deny to answere, they are to certifie the same, with the reasons by him alledged, wherefore hee will not answere vpon Oath; leauing the same to the consideration of the Court: And they are to take and returne such Answere as the Defendant shall deliuer vnto them.

But where the Defendant hath before appeared, and taken coppy of the Complaynants Bill, and hauing had conference with his Counsaile thereupon, is by him resolued, that hee cannot make a direct Answere, by reason of some matter in the said Bill laid to his charge, which hee cannot cleare without sight of Euidences, Writings, or Conference with some Person.

There is no reason, that after time so giuen to the Defendant, from the day of his Appearance, vntil the beginning of the next Terme following, hee should be admitted to *Demurre* to the Complaynants Bill.

For if there had beene any cause of *Demurrer*, he might have Demurred at the day giuen him to Answere; So that the Complaynant might haue had time to haue had the opinion of the Court, whether the *Demurrer* were good, or not.

So, if the Defendant, after such time so taken doe *Demurre* in Law: the Complaynant shall have an Attachment of course, as though no answere at all had beene put in: the sayd Attachment is to be entred thus, (*viz.*) For that the defendant hath not answered by the day to him giuen, therefore an Attachments, &c.

Vpon the returne of this Attachment, he may haue the like Processe as afore-sayd.

And in case where there be more Defendants, euery Defendant shal be punished alike, for his own like offence:

Except in case where a *Subpœna* is granted against a Man and his Wife: In which case a man shall bee vnder punishment for his Wiues offence.

For if a man bee serued with a *Subpœna* in *London* against him and his Wife (she beeing in the Countrey); yet if hee doe not satisfie the

Court,

Court, by ſome of the courſes before mentioned, as well for his Wife, as for himſelfe (hee being heere in perſon) an Attachment ſhall be granted againſt him and his Wife, as though hee had neuer appeared, which Attachment ſhall be entred: For that *A.B.* Wife vnto *C.B.* hath not anſwered according to a Day to them prefixed: Therefore an Attachment is awarded againſt *C.B.* and *A.B.* his Wife.

If the Complaynant dye, his Heire or Executor, who hath the intereſt of the thing whereof hee complaineth, may put in a Bill of *Reuiuor* againſt the Defendant, his Heire or executor, as the cauſe ſhall require.

Alſo, it is to bee remembred, that if the Complaynant Exhibite his Bill againſt a Man and his Wife, for matter which wholly concerneth the Wife: Whereunto they make Anſwere, and after anſwere made, the man dyeth. The Complaynant cannot proceede in that ſuite againſt the Woman, without a Bill of *Reuiuor*, becauſe the Woman ſhall not bee conſtrayned to ſtand to that Anſwere, which ſhe together with her Husband, or ſolely (as Wife vnto the Man) made to the Complaynant, for that ſhe was then vnder Couerture.

And after her Husbands death (ſhee being ſeized or poſſeſſed of the thing in Controuerſie as in her former eſtate) may (if ſhe pleaſe) make a new Anſwere, and ſhall neuer be bound or con-

eluded by the Anſwere which ſhee made in her Husbands life time, for that ſhee was then vnder Couerture. And yet (if ſhe ſo pleaſe) ſhee may ſtand to that former anſwer of hers, and proceede in that ſuit accordingly.

But if the Complaynant exhibite a Bill againſt a *Feme* ſole, whereunto ſhe maketh anſwere, and afterwards marrieth, the Complaynant may proceede againſt her Husband and her, without any Bill of *Reuiuor*: And her Husband ſhall be bound by that anſwere which ſhe made before marriage, becauſe ſhe ſhall not bee admitted to take aduantage of her owne act.

Where (on the contrary) if a *Feme* ſole exhibite her Bill of Complaint, whereunto the Defendant anſwereth, and afterwards ſhe taketh an husband, her Husband and ſhe ſhall not proceede againſt the Defendant, without a Bill of *Reuiuor*; becauſe her ſuite is abated by her own act, whereof the Defendant may take aduantage.

And if a Man and his Wife exhibite a Bill of Complaint, whereunto the Defendant anſwereth, and the man dyeth, the Woman ſhall be at her choice whether ſhe wil exhibite a new Bil, or proceed vpon the Former: And the Defendant ſhall be bound to his Anſwere made to the Man and his Wife.

Note that in *Chancery* you cannot ſerue the Wife without her Husband, though the matter in queſtion doe onely concerne her, and not him.

Alſo

Alſo, if two ſeized of joynt eſtate; or two Executors of one Teſtament; Or two *Obligers* or *Obligees* Exhibite a Bill of Complaynt, whereunto the Defendant anſwereth, and one of them dyeth.

The Surviuor of them may proceed againſt the Defendant, without any Bill of *Reuiuor*.

And in all caſes where a Bill of *Reuiuor* is requiſite after the ſayde Bill exhibited, and a *Sub pœna* ſerued on the Defendant to that purpoſe: The Complaynant ſhall be in the ſame caſe, as he for his Predeceſſor was, at the time when the cauſe of *Reuiuor* accrewed, vnleſſe the Defendant ſhall appeare vppon the ſayd *Sub pœna*, and by way of Anſwere ſhew good cauſe to the contrary: Which cauſe muſt be, that the Complaynant in the Bill of *Reuiuor*, is not Heyre, or Executor, nor ſtandeth in the like caſe, nor haue the like intereſt, or the like cauſe of Complaint, as before in the former ſuit:

And no other cauſe is to be allowed.

If the Complaynant exhibite his Bill of Complaint, for Title of any Lands, not of the yearely value of forty ſhillings. And the ſame be prooued by *Affidauit*, or depoſed, the Defendant ſhall be diſmiſſed.

Alſo, if the Defendant demurre to any Bill exhibited againſt him, or diſclaime: The Complaynant cannot reply:

For if the Defendant be called vp by *Sub pœna*,

ad Rejungendum, hauing before made no other answere, but a *Demurrer* or a *Disclaimer*, he shal haue costs for vniust vexation.

But after the Defendant hath answered, the Complaynant hath liberty all that Terme, and all the next Terme following that; and vntill the beginning of the third Terme to put in his *Replication*.

And if he *Replye* not accordingly: The Defendants Attourney may giue to the Complaynants Attourney a seuen nights Day in the time of the next Terme following to *Replye*, which day being past, and no *Replication* brought in: On the Day then next after it, the Defendant may haue costs, as in case of a Bill to be recouered.

But if the Complaynants Replication bee put into the Court, the Defendant can haue no costs allowed vnto him.

But then the Defendant may, if he will, *Rejoyne gratis* to the *Replication*, and enforce the Complaynant to goe to Commission.

Or else he may haue Commission to examine Witnesses on his owne part against the Complaynant, and shall haue the carriage thereof.

This Commission shall bee directed to Foure such persons as the Defendant shall name: Or to any three or two of them, without any warning to be giuen to the Complaynant.

But if in this case the Complainant will, hee

may

may ioyne in Commiſſion, and haue the carriage of it himſelfe.

And then he muſt haue two indifferent Commiſſioners: And the Defendant muſt name the like: (Which being agreed vppon.) the Complaynant muſt giue to the Defendant foureteene dayes warning, of the day and place, when, and where the ſayd commiſſion ſhall be executed.

This warning muſt be giuen, eyther by himſelfe in perſon: Or elſe left in Writing, at the Houſe or place, where the Defendant doeth moſt reſide.

The Complaynant in all caſes of Commiſſion to examine Witneſſes, ſhall haue the firſt choyce of Commiſſioners, and carriage of the Commiſſion, and for his reliefe.

Hee ſhall examine Witneſſes in all theſe caſes following: (viz.)

FIrſt vppon a Bill by him preferred to examine Witneſſes in perpetuall memory of the matter, to commaund the Defendant eyther by himſelfe, or by his Attourney to appeare immediately: And within foureteene dayes, to ſhewe cauſe why the Complaynant ſhou'd not examine Witneſſes (in perpetuall memory.)

And

And if the Defendant doe thereupon appeare by himselfe, or his Attourney, and shew good cause to the contrary, such as the Court shal allow, then the Complaynant shal not examine any witnesses *in perpetuam rei memoriam*, or perpetuall memory.

But if he doe shewe no sufficient cause, nor ioyne in Commission with the Complaint, then the Complaynants Attorney must preferre sixe Commissioners names to the Lord Keeper, or the Court, &c. Foure of the which, or foure such other, as the Lord Keeper or the Court shall appoint, shall be set downe for Commissiones, and a Commission for the Complaynant shal be made foorth, and directed to the sayd foure Commissioners, or any three, or two of them, to examine Witnesses, according to certaine Articles heeretofore set downe in *Chancery*, which Witnesses are neuer to be published, during their liues, vnlesse Oath be made.

That the Complaynant hath some tryall wherein he should giue them in Euidence.

That the VVitnesses are not able to trauell to the place where the tryall should be.

Or the party Defendant will consent thereunto.

Neyther can they be giuen in Euidence agaynst any other, but against the party which was called, to shew cause why the sayd VVitnesses should not be examined, or some other, clayming vnder him

ioyne in, hee may haue a Commission to examine witnesses of course, without any motion; but hee shall lose the benefit of *Injoyned*: And the Complaynant, if hee please to ioyne in the Commission, shall haue the carriage of it, giuing to the Defendant fourteene dayes warning, of the day and place, when and where the sayd Commission shall bee executed.

In the ioyning of this Commission, The Complainant must first name one Commissioner vnto whom the Defendant may giue generall exception.

The Defendant must name the second.

The Complaynant the third.

And the Defendant the fourth.

The Common exceptions, which bee giuen to Commissioners, are these, (viz.)

THat the Commissioner named, is of Kindred or Allyed to the party, for whom he is named:

That hee is a Master to the party:

That he is a Land-lord vnto him:

Or a Partner vnto him:

Or haue suite in Law with the aduerse party to him, by and for whom he is named:

Or is it of Counsayle, an Attourney, or a Follower of the cause of the one party:

Or to whom the party is indebted:

Or any other apparant cause of partiality, or siding with eyther party.

And it is commonly vsed, that eyther party may giue exception to one, and they seldome giue exception to any more then one, on eyther party,

If the Complainant make default, and procure not the Commission to bee executed: Then the Defendants Attourney may renne the sayd commission to the former Commissioners; and the Defendant shall haue the warriage thereof. (Giuing to the complainant fourteene dayes warning, of the day and place, when, and where it shall it be executed.)

And yet neuertheleſſe, the complainants Attourney may, if the complainant will, renue the sayd commission also, and giue the like warning also vnto the Defendant.

Vpon the execution of eyther of which commissions, and returne whereof, eyther of them may giue to the other a day, to shew cause why Publication should not be granted.

The day so giuen, is one weeke, which being expired, and no cause shewed to the contrary; Then Publication is granted; and neyther party can examine any Witnesses afterwards; vnleſſe it be by speciall order of the Court, which

is

is neuer granted, without an Oath made, that the party which requireth the same, nor any of them, hath seene, or bin made priuie to any examination of any of the Witnesses formerly examined in this Court by eyther of the parties: And some good cause bee showne, eyther by Oath, or certificate of commissioners, why the party could not get his said witnesses examined within the time limited for their examination.

In which case, sometimes the Court giueth order to examine Witnesses by a time prefixed, at the parties perill, with this *Proviso*, That the party shall not in the meane time see the sayd former examination.

And sometimes the Court giueth Order, that the said party shall examine his Witnesses, to informe the conscience of the Iudge onely, and not otherwise.

These Depositions are neuer published, but by especiall order or consent of the parties, but deliuered to the Iudge, sealed vp by the Officer, vnder whose custody they doe remayne, to the end he may peruse them.

If any one be called by a *Sub pœna*, to appeare in this Court: And vpon his appearance, the complainant or any other doth arrest him in any other Court; He shall haue a *Supersedeas* to discharge the Action, because he must haue free going and free comming.

But it is not so, if the complainant be arrested,

except it be after issue is joyned, and a day is giuen for the matter to be heard. And the Complaynant comming to the Court, with euidence to maintaine his cause, is arrested: The Court in this case shall defend him, and set him free to follow his suite.

But this is seldome seene: And hee that is Plaintiffe in the other Court, may declare against him heere *Prosequitur in curia*, if he please. See 37. *Eliz.*

If any one who hath Priuiledge in *Chancery*, be arrested into another Court, in a ioynt action with his Wife, for matter concerning her: Notwithstanding the Couerture, shee shall not haue any benefit of Priuiledge here. See *Fowles* case.

If one who is priuiledged in another Court, as in the *Kings Bench*, *Common pleas*, or *Exchequer*, doe arrest one of this Court who is here priuiledged as a Clerk, or otherwise: The Priuiledge here (howsoeuer it is in other cases sufficient to supersede the proceeding else-where) yet in this case I haue neuer seene it to preuaile against the other priuiledge.

For amongst like priuiledged men, most speed carries it away.

The

The Order made and ordayned by Sir NICHOLAS BACON, *Knight, Lord Keeper of the Great Seale, touching the Examination of witnesses* (in perpetuam rei memoriam) *Dated the tenth of December, in the third yeere of the late Qu.* Eliz. *followeth.*

FIrst the Commissioners shall examine no Witnesses, but such as bee aged and impotent.

Item, the Complaynant, or party, who setth forth the commission, shall giue warning by precept from the Commissioners, vnto the partie that should take preiudice by this examination, by the space of fourteene dayes at the leaſt, of the time, and place, and when, and where the said commissioners will sit vpon this commission.

And the same warning being so giuen: The commissioners are to be satisfied by the Oath of the party complainant, or of some other credible person, that warning is giuen accordingly, be-

fore they shall proceed to the execution of their Commission.

Item, If the party Aduersant, or Defendant, can shew before the Commissioners good cause of exception, eyther against the Witnesses produced by the complaynant, or any of them, or against the Commissioners themselues; Or otherwise then they shall cease and forbeare any farther execution of the commission.

And the commissioners shall certifie and returne the sayd causes, and exceptions, vp with the commission.

Item, If the party aduersant cannot shew sufficient cause, (as aforesaid) then the commissioners shall proceed to the examination of Witnesses; and the party aduersant, or defendants shall haue liberty to ioyne in the examination of the same Witnesses, or of any other likewise vpon Interrogatories on his behalfe (if he thinke good.)

Item, the commissioners shall certifie in their returne of the commission, such acceptations as the defendant shall take against the proceeding in the same commission, and whether the Defendant did appeare or no?

And if the Defendant did not appeare, they are likewise to certifie and returne, whether *Affidauit* were made of the giuing of warning by precept (as aforesayd) or no?

Orders

Orders to bee obserued before the granting of Publication of the sayd Commission.

THe party who prayeth Publication, shall first by himselfe, or some other, make Oath that the Depositions of the same witnesses, are necessarily to be giuen in euidence on his behalfe.

Item, Oath also must be made, that the same Witnesses be either dead, or so aged, or impotent as they cannot trauell to testifie (*viua voce*) without danger of life.

Item, This Oath being so taken, a Master of the *Chancerie* must first open the Commission, and consider whether this Order before mentioned hath bin obserued in all points, wherein hee being satisfied, Publication is thereupon to bee granted.

Prouided alwayes that no Depositions shall be giuen in euidence, but against those persons that were warned by precept (as afore sayd) or against their Heires or Assignes.

And prouided also, That after examination had, and taken (as afore sayd,) And after Publication had, and granted of the same examinations: The party Aduersant, or Defendant, shall not

not bee admitted to haue any new examination on his behalfe, concerning the same matter.

Item, This Order is to bee obserued in case where the commission is *ex parte querentis* onely, and it is to bee engrossed in Parchment, and subscribed with the hand of the Register, and to be annexed to every of the said commissions but not otherwise.

For if the Defendant ioyne, then these Articles shall not need.

The difference vsed betweene a Ioynt-Commission in the aforesayd nature; And a Commission ex parte, followeth.

THe Ioynt-Commission is made in forme, as all other generall commissions to examine Witnesses, *Super Interrogator. ministrand.* bee, adding to the end of the same, these words (*viz.*) *In perpetuam rei memoriam permansur.*

This Commission *ex parte*, is to haue these rules inserted vnder the Registers hand, and the Commissioners names are specially to be assigned by the Lord *Keeper*, or Lord *Chancellour* for the time being.

Termin.

Termino Michaelis, Anno Regni
Eliz. Reg. 34.

MEmorandum, That all Iniunctions granted for preseruation of possession, during the suit of the Court of *Chancery*, shall haue this clause and condition contained in them (*viz.*) That the party who prayeth possession, was in possession at the time of the Bill exhibited, and certaine yeares before; And that his interest is not determined by forfeiture, surrender, or other lawfull meanes.

And Bond must be put in by the party who prayeth the possession, of the penalty of tenne pound, with condition that this Information aforesayd is true.

Item, that all Iniunctions granted for the stay of Suites at the common Law, shall haue this clause and condition contained in them (*viz.*) That the same Suite desired to be stayd, is for and concerning the same matter depending in this Court, and as we beganne at the common Law, after the Bill exhibited into this Court; and that Bond be put in (as aforesayd.)

Item, That no *speciall Certiorare* doe passe without Bond first giuen, on the behalfe of the party, who desireth the same; with condition That the Bill exhibited containeth matter sufficient

E

cient to beare a *Certiorare*, And that hee shall proue the contents of this bill to be true, within Fifteene dayes after the returne of the Writ, according to the Order and course of this Court.

And that vpon the granting of every *Procedendo*, the Bond aforesayd be cancelled to the Lord Keeper.

Termino Trinitatis, Anno Regni Eliz. *Reg. Septimo.*

IT is ordered, that all Suites for no more then fiue acres of Land, or lesse, except the same be worth Forty shillings by the yeare.

And all Suites for matter vnder the value of tenne pounds, shall be dismissed this Court, for such cause onely proued. And this Court shall not retaine any such. But the party who bringeth the same hither, shall pay costs to the Defendant, as this Court shall award.

Termino Michaelis, Anno Regni Eliz. *Reg. Septimo.*

IT is ordered, that all *Processe* to beare Iudgement, be returnable fiue or seauen dayes before the day of Hearing, and not aboue, laying in the beginning of the Terme, when the

the time will not permit so long warning.

And the said Writs must be endorced on the backside, with the very day appointed for the hearing of Iudgement. And so much for that Terme.

By the generall customs and ancient vsage of this Court, all Bils shall be receiueable here, in case where the Equity of the cause requireth and beareth it, And wherein the Common Law doth affoord no releife, but rather pressure and rigour.

After Publication once had, the Complainant may procure a day of Hearing of course, by such an one of the sixe Clerks as dealeth for him. And he may at the end of the Terme, when the Lord Keeper setteth downe the dayes of Hearings, procure his hearing to be set downe amongst those assigned for the next succeeding Terme.

This was wont to be the ancient course of procuring of Hearings, howsoeuer it was lately disvsed, And (as I take it) the same is now restored againe, to the good contentment of all Suitors in this Court.

The Order of Proceeding against such as refuse to obay his Maiesties Iniunctions, proceeding and issuing out of the Court of Chancerie.

FOr the breach of an Iniunction, there bee commonly three punishments, (*viz.*)

One, that the *Contemptor* shall not be in all the principall cause, till he have fulfilled the *Iniunction* in euery poynt.

Another, that he shall not be committed to Ward in the meane time, And there continued till he doe conforme himselfe, and become obedient to the Iniunction.

The third, that hee shall fine to the King for his *Contempt*, as the Lord *Keeper*, or Lord *Chancellour* for the time being, shall please to award. And the Lord *Keeper*, or Lord *Chancellour* may dispence heerein, as they shall finde cause and reason.

Item; for the *Contemptor* doe not appeare vpon sight of the *Iniunction*, or not obey the same; but doth commit some Act in contempt or neglect thereof, Then vpon an *Affedauit* made of the seruing of the sayd *Iniunction*, There shall bee awarded

awarded an Attachment against the ſayd *Contemptor*, &c. as in the caſe of *Proces* before mentioned and declared.

Item, If the *Contemptor* doe appeare, and hath not fulfilled and performed the *Iniunction*; and yet, at his comming doth offer to fulfill it, alleaging that he cannot doe it here conueniently: Then the Lord *Keeper*, or Lord *Chancellor* vſeth to appoint him a certaine day, within which hee muſt doe it: And ſo, vpon Bond taken of him, with Sureties, who are to undertake (in caſe his owne ſecurity be not held ſufficient) that he ſhall performe the *Iniunction* within the time giuen, or at the day to render his body to priſon, there to remaine, till he hath fulfilled the ſame, He may be licenſed to depart.

What I haue hitherto ſet downe, is deſumed and collected out of the ancient Forme of practice and Orders of this Court of *Chancerie*: I ſhall now deliuer the orders and practice of latter times, moſt of which are agreeable with the former: ſome are *de nouo* ordayned; and all are ſubject to addition or alteration, as the Court ſhall thinke fitting; and done *Salua Prerogatiua Curiæ.*

The Moderne Orders and Ordinances of Chancery follow.

Affedauits.

NO *Affedauit* shall be admitted or taken which shall tend to the proofe or disproofe of the Title or matter in question, or touching the merits of the cause.

Neyther shall any such matter be colourably inserted, in any *Affedauit* to be made touching the *Seruing* of *Proces*.

No *Affedauit* shall be taken against *Affedauit*, so farre as the Master of *Chancerie* can discerne, or take knowledge, &c.

If any such be taken, The latter shall not be vsed or read in Court.

Contempts.

IN case of Contempts, granted vpon force, or ill words, vsed vpon seruing of *Proces*, Or other words of *Scandall*, proued by *Affedauit*, the party is forthwith to stand committed:

But for other Contempts, against the Orders or Decrees of the Court:

First,

First, an Attachment goes foorth vpon *Affedauit* made.

Then the party is to be examined vpon Interrogatories.

His examination is to be referred:

And if vpon examination, he confesse matter of Contempt, he is to be committed.

If he confesse it not, The Aduerse party may examine Witnesses to proue the Contempt;

And if the Contempt appeare vpon proofe, the contemptor is to be committed therefore.

But if the Aduerse party faile to proove the sayd contempt, Or faile to put in his Interrogatories or other prosecution, then the party charged with the contempt, is to be discharged with good costs.

They that are in Contempt, especially so farre as *Proclamation of Rebellion*, are not to bee heard neyther in that suit, nor in any other, except the Court of speciall grace, suspend the Contempt.

Imprisonment vpon *Contempts* for matters past, may be discharged of grace, after sufficient punishment: Or it may be otherwise dispensed withall in such case.

But if the imprisonment bee for performance of any Order of the Court in force: Then the *Contemptor* ought not to be discharged, except hee first obey: Onely, the Contempt may bee suspended for a time.

Petitions

Petitions.

NO *Iniunctions*, *Sequestration*, *Dismissions*, *Retainer* vppon *Dismissions*, or *Finall Orders*, shall be granted vpon *Petitions*.

No former Order made in Court, is to be altered, crossed or explayned, vpon any *Petition*; But such Orders may be onely stayd vpon *Petition*, for a small time, till the matter may be moued in Court.

No *Commissions* for examination of Witnesses shall be discharged; Nor any examinations, or depositions of Witnesses, shal be suppressed vpon *Petition*, vnlesse it be first referred, and Certificate be made thereupon.

No *Demurrer* shall bee ouer-ruled vpon any *Petition*.

Iniunctions.

Iniunctions for possession or for stay of Suites after verdict, are to bee presented to the Lord *Keeper*, or Lord *Chancellor*, being together with the Orders whereupon they goe forth; That his Lordship may take consideration of the Orders, before he signe them.

No *Iniunction* of any nature, shall be granted, reui-

reuiued, dissolued, or staid vpon priuate Petition.

No *Iniunction* to stay Suites at the Common Law, shall be granted vpon *Priorities* of Suite onely.

Or vpon the *Surmise* of the Complainants Bill onely.

But vpon matter confessed in the Answere of the Defendant.

Or matter of Record.

Or writing plainely appearing.

Or when the Defendant is in Contempt for not answering.

Or when the debt desired to be stayd, appeareth to be old, and hath slept long.

The creditor and the debtor haue beene dead some good time, before the Suite brought.

Where the Defendant appeares not, but sits in Attachment: Or when he doth appeare and departs without answere, and is vnder attachment for an answering: Or where hee takes Oath, that hee cannot answere without sight of Euidences in the Country: Or where after answere, he sues at Common Law by Attourney: Or absents himselfe beyond Sea.

In all these cases, an *Iniunction* may be granted, for stay of suites at the Common Law, vntill the party answere, or appeare in person in Court, and the Court giue further order.

But neuertheless, vpon answere put in, if there bee no motion made the same Tearme, or

at the next generall Seale after the Terme, to continue the *Iniunction*, in regard, and vpon suggestion of the insufficiency of the Answere put in: Or in regard of the matter confessed in the Answere, then the *Iniunction* shall dye, and dissolue, without any speciall order.

In the case aforesaid, where an *Iniunction* is to be granted, for stay of Suites at the Common Law: If the like Suites be in the *Chancery*, either by *Scire facias*, or by *Priuiledge*, or *English* Bill, Then the Suite is to be staied by order of the Court, as it is in other Courts by *Iniunction*.

Where an *Iniunction* hath bin obtained, for staying of Suites at the Common Law, and no prosecution is had by the space of three Termes afterwards: The *Iniunction* is to fall of it selfe, without farther motion.

Where a Bill comes in after an Arrest, at the Common Law for a Debt, No *Iniunction* shall be granted, without bringing the principall money into the Court, except there appeare in the Defendants answere, or by sight of Writings, plaine matter, tending to discharge the Debt in Equity, But if an *Iniunction* be awarded, and disobeyed in that case. Then no money shall be brought in, or deposited, in regard of the contempt.

Iniunctions for *Possession* are not to be granted before a *Decree*, but where the Possession hath continued by the space of three yeares past before

fore the Bill exhibited, and vpon the same Title, and not upon any Title by leaue or determined.

In case where the Defendant sits all the processe of Contempt, and cannot be found by the Sergeant at Armes, or resists the Sergeant, or make rescues, a Sequestration shall be granted of the Land in question, and if the Defendant doe not render himselfe within the yeare, then an *Iniunction* shall be granted for the Possession.

Iniunctions against the felling of Timber, or plowing vp of ancient Pastures, or for the maintaining of Inclosures, or the like, shall be granted according to the circumstances of the case, but not in case, where the Defendant vpon his answere, claimeth a state of inheritance, except it be where he claimeth the Land in trust, or vpon some other speciall ground.

Iniunctions shall be enrolled, or the *Transcripts* thereof be fyled.

Order.

WHere any Order shall be made against the generall Rules of the Court: There the *Register* shall plainly and expressely set down the particular reasons and grounds, moving the Court to vary from the generall rule.

No order of the publike Court is alterable vpon *Petition* vid in the Title petition.

Register Order.

THe *Registers* are to be sworne.

If any Order shall be made, and the Court not informed of the last martiall Order formerly made; No benefit shall be taken by such Order as being granted by abuse, and surreption: And to that end, the *Register* ought duly to mention the last former Order in the present Order.

No order shall be explained vpon any *Petition*, but onely in Court as they are made: and the *Register* is to set downe the Orders, as they are pronounced by the Court, truely, at his perill, without troubling the Lord *Keeper*, or Lord *Chancellour*, by and priuate attending of him, to explaine his meaning. And if any explanation be desired, It is to be done by publike motion, where the other party may be heard.

No draught of any order shall be deliuered by the *Register* to eyther party, without keeping of a Copy by him: to the end that if the Order be not entred; Nevertheless, the Court may be enformed what was formerly done, and not be put to a new trouble, and to the end also, that knowledge of Orders be not kept backe too long from eyther party, but may presently appeare at the office.

Where

Where a cauſe hath beene debated vpon hearing of both parties: And opinion hath bin delivered by the Court; and nevertheleſſe, the cauſe referred to Treaty: The *Regiſters* are not to omit the opinion of the Court in drawing of the Order of Reference, except the Court doe ſpecially declare, That it is to bee entred without any opinion eyther that way.

In which caſe, nenertheleſſe, the *Regiſters* are out of their ſhort Notes, to draw vp ſome more full remembrance of that which paſſed in Court, to informe the Court if the cauſe come backe, and cannot be agreed.

The *Regiſters* vppon deliuery of the draught of any Order, vnto the counſell of eyther party, are not to reſpect the interlineations, or alterations of the ſaid Counſell (be the ſaid Counſell neuer ſo great) further then as to put them in remembrance of that which was truely deliuered in Court; and ſo to conceiue the Order vpon their Oath and duty, without any other or farther reſpect.

The *Regiſters* are to be careful in the penning and drawing up of *Decrees*; And eſpecially in matters of difficulty and weight: And therefore when they preſent the ſame to the Lord *Keeper* or Lord *Chancellour*, They ought to giue him vnderſtanding which are ſuch *Decrees* of weight, that they may be read and reviewed, before his Lordſhip ſigne them.

Decrees.

THe *Decrees* granted at the *Roles*, are to be presented before the Lord *Keeper*, or Lord *Chancellour* for the time being, with the Order whereupon they are drawne, within two or three dayes after the Terme.

NO *Decree* shall be reuersed, altered, or explained, being once vnder the Great Seale but vpon Bill of *Review*, and no Bill of *Review* shall be admitted, except it be vpon error in Law, appearing in the body of the *Decree*, without farther examination of matters in Fact, or hee shall shew some new matter which hath risen in time after the *Decree*, and not any new proofe, which might haue beene vsed when the *Decree* was made.

Neuertheleſſe, vpon new proofe which is come to light since, and after the *Decree* made, and could not possibly haue bin vsed at the time when the *Decree* passed, a Bill of *Review* may be granted by the speciall Licenſe of the Court, and not otherwiſe.

In case of miſ-casting, being a matter Demonſtratiue, a *Decree* may be explayned, and reconciled by an order without Bill of *Review*.

Where

Where note, that by the word *Miſ-caſting*, is not intended any pretended *Miſ-caſting*, or miſ-valuing, but onely errour in the Auditing, or numbring.

No Bill of *Review* ſhall be admitted, or any other new Bill to change matter decreed, except the *Decree* bee firſt obtained, and performed: And if it be for Land, that the poſſeſſion be yeelded: If it be for money, that the mony be paid, If it be for euidence, that the euidence be brought in, and ſo in other caſes which ſtand vpon the ſtrength of the *Decree* alone.

But if any Act be deſired to be done, which extinguiſheth the parties right at the Common Law (as making of Aſſurance and Releaſe: Acknowledging of Satisfaction, Cancelling of Records or Euidence, and the like) Thoſe parts of the *Decree* are to be ſpared, vntill the Bill of *Review* be determined: But ſuch ſparing is to be warranted by publique Order made in Court.

No *Decree* ſhall be made vpon pretence of equitie, againſt the expreſſe prouiſion of an Act of Parliament.

Neuertheleſſe, if the conſtruction of ſuch Act of Parliament, hath for a time gone one way in generall opinion and reputation; and after by a latter iudgement hath beene controlled: Then Reliefe may be giuen vpon matter of equity for caſes ariſing before the ſaid Iudgement: becauſe the Subiect was in no default.

Impri-

Impriſonment for breach of a *Decree* is in nature of an *Execution*, and therefore the cuſtodie ought to be ſtraight, and the party not to haue any liberty to go abroad, but by ſpeciall licenſe of the Lord *Keeper*, or Lord *Chancellor* being: But no cloſe impriſonment is to bee but by expreſſe order for wilfull and extraordinary Contempts and diſobedience (as hath beene vſed.)

In caſe of obſtinate diſobedience, in the breach of a *Decree*, an *Iniunction* is to be granted *Subpœna* of a ſumme: and vppon *Affedauit*, or other ſufficient proofe of perſiſting in contempt, Fines are to be pronounced by the Lord *Keeper*, or Lord *Chancellor* in open court, and the ſame are to bee eſtrated downe into the Hannaper by ſpeciall order.

In caſe of a *Decree* made for the poſſeſſion of Land, a Writ of *Execution* goeth forth, and if that be diſobeyed; Then *Proceſſe* of *Contempt*, according to the courſe of the Court, is to goe forth againſt the perſon vnto the commiſſion of Rebellion; and then a Sergeant at Armes by ſpeciall Warrant: and in caſe the Serieant at Armes cannot find him, Or he be reſiſted, Or if he vpon his commitment do perſiſt in his diſobedience, an *Iniunction* is to be granted for the poſſeſſion, and in caſe that it alſo bee diſobeyed, Then a commiſſion is to bee made to the Sheriffe, to put his aduerſary into poſſeſſion.

Where the party is committed for breach of a

Decree

Decree, He is not to bee enlarged, vntill the *Decree* be fully performed in all things which are to be done presently.

But if there by other parts of the *Decree* to bee performed at dayes or times to come: Then hee may be enlarged by order of the Court, entring into Recognizance with Sureties for the performance *de futuro*, but not otherwise.

Where causes come to hearing in Court; no *Decree* bindeth any person, who was not serued with Proces *ad audiendum Iudicium*, according to the course of the Court; Or did appeare *gratis* in the Court.

No *Decree* bindeth any one that commeth in *bona fide*, by Conueyance from the Defendant before the Bill exhibited; And is made no party either by Bill or by Order.

But where hee comes in *Pendente lite*, and while the Suit is in full prosecution, and without any colour of allowance, or priuity of the Court; There regularly the *Decree* bindeth.

But if there were any intermission of suite; Or the Court were made acquainted with the conueyance, The Court is to giue order upon the speciall matter according to Iustice.

Where a *Decree* made for a Rent to bee payd out of Land; Or a summe of money to bee leuied vppon the profits of Land; There a *Sequestration* of the same Land being in the

Defendants hands may be granted vppon the *Decree.*

Where the *Decree* of the *Prouinciall* counsailes, Or the Court of *Requests* or the like, are by contumacy or other meanes interrupted: There the Court of *Chancery*, vpon a Bill preferred for corroboration of the *Decrees* of that Iurisdiction, shall give remedy.

Where any cause comes to hearing heere, which hath bin formerly *Decreed* in any other of the Kings Courts of Iustice at *Westminster*; Such *Decree* shall be first read, and then this Court shall proceed to heare the rest of the euidences on both sides.

Decrees vppon *Suites* brought after Iudgement, shall containe no words to make voyde or weaken the Iudgement: But shall onely correct the corrupt Conscience of the Party, And rule him to make Restitution, or to performe other acts, according to the equitie of the cause.

Bill of Review.

Decrees are not to be reuersed, altered, or explained, being once vnder the Great Seale, but vpon Bill of *Review.*

Bill of *Review* shall not be admitted except the *Decree* be first obeyed and performed.

No *Bill* of *Review* shall be put in, except the party

party that preferres it, enter into *Recognizance*, with Sureties for the ſatisfying of Coſts & Damages for the Delay, if it be found againſt him.

Reference, Report.

NO *Reference* vppon a *Demurrer*, or queſtion touching the Iuriſdiction of this Court, ſhall be made to the Maiſters of the *Chancery*, But ſuch *Demurrer* ſhall bee heard and ruled in the Court, or by the Lord *Keeper* or Lord *Chancellour* himſelfe.

For the confirming or ratifying of any *Report*, No Order ſhall be made, without day to be giuen, by the ſpace of a Seuen-night (at leaſt) to ſpeake vnto it in Court.

No *Reference* ſhall be made to any Maiſter of the Court, or any other Commiſſioner or Commiſſioners, to heare and determine, where the cauſe is gone ſo farre as to examination of Witneſſes: Except it be in ſpeciall caſes of Parties neare in bloud, or of extreame poverty, Or by conſent:

And generally, *Reference* of the ſtate of the cauſe, or to be ſparingly granted; except it be by conſent of the parties.

No *Report* ſhall be reſpected in Court, which exceedeth the Warrant of the Order of *reference* which leadeth it.

The Masters of the Court are required, that by *Reports* they doe not certifie the estate of the cause; as if they would make *Breuiaries* of the Euidence on both sides, which doth little ease the Court; But that they doe it with some opinion; Or otherwise, in case they thinke it too doubtfull, to giue opinion therein; And thereupon they are to make such speciall *Certificate*; and the cause is to goe on a judiciall hearing, without respect had to the same.

If both parties consent to a *Reference* for the examination of Accompts, to make the Cause more ready for hearing, it may be granted. But generally, matters of Accompt, excepting in very weighty Causes, are not fit for the Court, but are to bee prepared by *Reference*, with this prouision neuertheless; That the Causes come first to Hearing; and vpon the entrance into a Hearing, they may receiue some direction, and bee turned ouer to bee considered and prepared.

The like course of *Reference* is to be taken for the examination of Court Rolles, vpon any Customes; and the Coppies shall not be referred to any one Master, but to two Masters at the least.

No *Reference* shall be made of the *Insufficiency* of any Answere, without shewing of some particular points of the defects thereof; And not vpon surmize of the *Insufficiencie* generally.

Where

Where a Truſtis not preſſed by the Defendants anſwere, there needeth no further hearing of the cauſe, but a *Reference* preſently to be made of the Accompts, and ſo they are to goe on to the hearing of the Accompts.

Diſmiſsion.

WHere Cauſes are diſmiſt vppon full Hearing, and the Diſmiſſion ſigned by the Lord *Keeper* or Lord *Chancellour*, ſuch Cauſes ſhall not be retained againe, neither ſhall any new Bill be admitted, except it be vpon new matter, like vnto the caſe of the Bill of *Review*.

In caſe of all other Diſmiſſions, which are not vppon hearing of the Cauſe, if any new Bill bee brought, the Diſmiſſion is to be pleaded; and after *Reference* and *Report* of the *Contents* of both Suites, and conſideration taken of the Cauſe or cauſes of the former Diſmiſſion; The Court ſhall rule and order the Retyning or Diſmiſſion of the new Bill, according to Iuſtice, and the nature of the Caſe.

All Suites grounded vpon Wils *Nuncupatiue*, Leaſes *parol*, Or vppon Long Leaſes, that tend to the defeating of the Kings *Tenures*, Or for the eſtabliſhing of the *Perpetuities*, Or granted vpon *Remainder* ouer vnto the Crowne, to defeat purchaſers; Or for *Brocage*, Or Rewards to

making mariages, Or for bargaine or play; Or Wagers for bargaines for Offices, contrary to the Statute of the second of *Edward* the sixt; Or vpon contracts for *Vsurie* or *Simony*, are Regularly to bee dismissed vpon motion, if they be the whole matter of the Bill; and there be no speciall circumstances to moue the Court to allow them a Proceeding.

And all suites vnder the value of ten pounds, are Regularly to be dismissed.

Dismissions are properly to be payed, and had, either vpon hearing, or vpon Plea vnto the Bill, when the cause comes first into the Court.

But *Dismissions* are not to be prayed after the parties haue bin at charge of examination of witnesses, except it be vpon speciall cause.

If the Complainant discontentiue prosecution; after all the Defendants haue answered, aboue the space of one whole Terme, the cause is to be dismissed of course without motion.

But after *Replication* is put in, the cause is to be dismissed without motion and order of the Court.

For double vexation, the cause may bee dismissed.

Where causes are remoued by speciall *Certiorare*, vpon a Bill containing matter of equitie, The Complainant is vpon receipt of his Writ, to put in Bond to proue his suggestions within foure teene dayes after the receipt, which if he do not

not proue, then vpon certificate from either of the Examiners, presented to the Lord *Keeper* or Lord *Chancellor*, the cause shall be dismist with costs, and a *Procedendo* shall be granted.

Demurrer.

Demurrers and *Pleas* which tend to the discharging of any Suit, shall be heard first vpon euery day of Orders, that the Subject may know, whether he shall need to giue further attendance or no.

A *Demurrer* is properly vpon matter *defective* contained in the Bill it selfe, or forraigne matter.

But a *Plea* is of forraigne matter, to discharge or stay the Suite.

(as)

That the cause hath bin formerly dismist.

That the Complainant is vtlawed.

That the Complainant is excommunicate.

That there is another Bill depending for the same cause,

or the like.

And such *Plea* may be put in without Oath, in case where the matter of *Plea* appeares vppon *Record*, but if it be any thing which doth not appeare vppon *Record*, then the *Plea* must be put in vpon Oath.

No Vtlary shall be allowed, without pleading the *Record sub pede Sigilli*: Nor Plea of Excommuni-

munication without the Seale of the Ordinary.

Where any ſuit appeareth vpon the Bill to be of the nature of any of thoſe which are Regularly to be diſmiſſed, according to the Order before mentioned, the ſaid Order is to be ſet forth by way of *Demurrer*.

Anſwere.

WHere an Anſwere ſhall be certified to bee inſufficient, The Defendant is to pay coſts.

And if a ſecond Anſwere be returned inſufficiency, then he ſhall pay double coſts.

And vpon the third like caſe, treble coſts.

And vpon the fourth, quadruple coſts, and then to be committed alſo till he ſhall haue made a perfect and ſufficient Anſwere, and he ſhall be examined vpon *Interrogatories*, touching the poynts *defective* in his anſwere.

But if any anſwere be certified to be ſufficient, then the Complainant is to pay coſts.

No *inſufficiencie* of anſwere can be taken hold of, after *Replication* put in, becauſe it is admitted for *ſufficient* by the *Replication*.

An anſwere to a matter charged as the Defendants owne fact, muſt be directed without ſaying that *it is to his remembrance*, or *as he beleeueth*.

If

If it be laid downe to bee done within ſeauen yeares before.

And if the Defendant doe deny the Fact: Then he muſt trauerſe it directly, and not by way of *Negatiue pregnant.*

As if a fact be layd to be done with diuers circumſtances; The Defendant may not trauerſe it *literally*, as it is laid in the Bill: But he muſt Trauerſe the point of ſubſtance.

So as if he be charged with the receipt of an hundred pounds; He muſt Trauerſe that hee hath not receiued an hundred pounds, or any part thereof. And if he haue receiued any part of it, he muſt ſet downe what part he hath receiued.

If a hearing be payed vpon Bill and Anſwere: The Anſwere muſt bee admitted to bee true in all points.

And a *Detree* ought not to bee made, but vpon hearing of the anſwere read in Court.

Where no Counſaile appeares for the Defendant at the Hearing; and the Proceſſe appeares to haue beene ſerued; the Anſwere of ſuch Defendant is to be read in Court.

No new matter is to be contained in any Replication, except it be to auoyd matter ſet forth in the Defendants Anſwere.

Other things Promiſcuouſly layd together.

ALL Coppies in *Chancery* ſhall contayne fifteene Lines in euery Sheete thereof, written orderly, and vnwaſtefully, vnto which ſhall bee ſubſcribed the name of the principall Clerke of the office where it is written, or his Deputies name, for whom hee will anſwere. For which onely *Subſcription*, no Fee at all ſhall bee taken.

All Commiſſions for examination of Witneſſes, ſhall bee *ſuper Interrogatorij inclauſis*, or Interrogatories incloſed onely: And no returne of Depoſitions into this Court ſhall be receiued; but ſuch onely, as ſhall be either compriſed in one Roll, ſubſcribed with the names of the Commiſſinors; or elſe in divers Rolles, whereof each one ſhall be ſo ſubſcribed.

If both parties agree in a Commiſſion, And vppon warning giuen, the Defendant bringeth his commiſſioners; but produceth no Witneſſe, nor Miniſter Interrogatories; but afterwards ſeekes a new commiſſion, the ſame ſhall not be granted.

But neuertheleſſe (vppon ſome extraordinarie excuſe made for the Defendants default) he may haue

haue liberty granted vnto him by his especiall order to examine his Witnesses in Court, vpon the former Interrogatories, giuing to the complainant or his Attourney notice that he may examine also if he will.

The Defendant is not to be examined vpon Interrogatories, except it be in very speciall cases, by expresse order of the court, to sift out some fraud or practise, pregnantly appearing to the Court: Or otherwise vppon offer of the complaynant, to be concluded by the answere of the Defendant, without any liberty farther to disproue such answere, or to impeach him afterwards of Perjury.

Decrees made in other Courts may bee read vpon Hearing, without any Warrant by speciall order.

But no depositions taken in any other Court, are to be read but especiall order.

Regularly the Court granteth no Order for reading of forraigne Depositions, Except it bee betweene the same parties, and vpon the same Title or cause of suite.

No examination is to be had of the credit of any Witnesse; but by speciall order, which is likewise sparingly to be granted.

Where it shall appeare the complainant had not cause of suite, he shall pay to the Defendant his vtmost costs, to be assessed by the Court.

If any Bill Answere, Replication, or Reioynder

der ſhall bee found of immoderate length, both the partie who put it in. And his Counſell vnder whoſe hand it paſt, ſhall bee fined by the Court.

If there bee contayned in a Bill, Anſwere, or other Pleading or any interrogatory, any matter libellous, or ſlanderous againſt any perſon that is not party to the Suite, or againſt ſuch as are parties to the ſuite vppon matter impertinent, or in Derogation of the ſettled Authority of any of his Maieſties Courts; Such Bills, Anſweres, Pleadings, or Interrogatories, ſhalbe taken off the Flye, and ſuppreſt; And the parties ſhall bee ſeuerely puniſhed by commitment, or Ignominie, as ſhall be thought fit for his abuſe of the Court: And the Counſaylors at Law who ſhall ſet their hands to the ſame Bills, Anſwers, Pleadings, or Interrogatories, ſhall likewiſe receiue reproofe, or puniſhment, it cauſe bee.

No *Scire facias* ſhall be awarded vpon *Recognizances* not inrolled; Nor vpon *Recognizances* inrolled, vnleſſe it be vppon examination of the *Record* with the Writ.

No *Recognizances* ſhall bee inrolled after the yeare, except it be vpon ſpeciall order of the Lord *Keeper* or Lord *Chancellor* being.

No Writ of *Ne exeat Regna*, *Prohibition*, *Conſultation*, *Statute of Northampton*, *Certiorare* peciall, or *Procedendo* ſpeciall, or *Certiorare*, or *Procedendo* generall, more then once in the ſame cauſe;

cause; Nor *Habeas Corpus*, or *Corpus cum causa*, *De vi laica amouenda*, or *Restitution* therevpon, Or *de Coronatore viridario eligendo*, *De homine replegiando*, *Assistas* speciall, *De bellino amouendo*, *Certiorares super presentationibus factis coram Commissionar. Sewers*, or *ad quod damnum*, shall passe without warrant vnder the hand of the Lord *Keeper* or Lord *Chancellor*, beeing signed by the one of them, Excepting onely such writs of *ad quod damnum*, as shall bee signed by his Maiesties Attourney Generall.

Writs of Priuiledge would bee reduced to a good and fitting rule, for number of persons priuiledged, and the case of Priuiledge.

The number would be set downe by *Schedule*.

For the case, it is to be vnderstood, that besides the persons priuiledged as *Attendants* vpon the Court; Suitors and Witnesses are onely to haue priuiledge *eundo*, *redundo*, & *morando*, for theyr necessary attendance, and not otherwise. And that such Writs of priuiledge doe onely discharge an Arrest vppon the first Processe.

And yet where the partie is taken in execution at time of necessary attendance here required, It is to be taken as a contempt to to this Court, and accordingly to be punished.

No *Supplicauits* for the *Good behauiour* shall bee granted, but vpon Articles grounded vpon Oath at least, or vpon a Certificate of any one Iustice

of Assize, or two Iustices of the Peace, with Oath that it is their hands; Or it may bee graunted by order of the *Starre-Chamber*, or *Chancerie*, or other of the Kings Courts.

No *Recognizance* of the *good behaviour* and the *Peace* taken in the Country, and certified into the *Petty-Bagge*, shall be fyled within the yeare, without speciall Warrant.

Writs of *Ne exeat Regna*, are properly to be graunted, according to the suggestion of the Writ; In respect of Attempts, preindicall to the King and State: In which cases, the Lord *Keeper*, or Lord *Chancellour* will grant them, vpon the prayer of any the principall Secretaries, without cause shewing; Or vpon such Information as his Lordship shall thinke to bee of weight.

But otherwise also they may be granted according to the ancient practise vsed in case of *Interlopers* in Trade, Great *Bankrupts*, in whose estate many Subjects are intressed; or in other cases that concerne multitudes of the Kings subiects, And also in case of *Duels*, and some other cases.

All Writs, Certificates, and whatsoeuer other *Processe* returnable *Coram Regi in Cancellaria*, shall be brought into the Chappell of the *Rolles*, within conuenient time after the returne thereof: And shall be there filed vpon their proper files and bundles as they ought to bee, and as the practice

tice hath bin heretofore, except onely the depositions of the Witnesses, which may remaine with any of the sixe Clerkes, by the space of one yeare next after the cause in court shall be either determined by Decree, or otherwise dismist.

All *Iniunctions* with their Transcripts shall be likewise inrolled, as heretofore was vsed.

All dayes giuen by the Court to Sheriffes to Returne their Writs, or to bring in their Prisoners vppon Writs of priuiledge, or otherwise betweene party and party vnpriuiledged, shall be filed either in the *Registers* Office, or in the *Petty-Bagge* respectiuely.

And all Recognizances taken to the Kings vse, or vnto the Courts, shall be enrolled in conuenient time with the Clerke of the Inrolement, And calenders shall bee made of them, and the sayd callenders shall be presented euery Michaelmas Terme to the Lord *Keeper* or Lord *Chancellor* being.

In case of Suites vpon *Commission* for *Charitable vses* to avoyd charge, there shall need no Bill, but onely exceptions vnto the *Decree*: and Answere is to be made forthwith thereunto and therevpon: And then vpon sight and perusall of the *Inquisition*, and the Decree brought vnto the Lord *Keeper* or Lord *Chancellor*, by the Clerk of the *Petty-Bagge*, His Lordship will giue order vnder his hand, for an absolute *Decree* to be drawn vp.

Vpon

Vpon ſuite for a *Commiſſion* of *Sewers*, the names of thoſe that are deſired to bee Commiſſioners, are to be preſented to the Lord *Keeper* or Lord *Chancellor* in writing, And then his Lordſhip will ſend theyr names to ſome Prinie Counſellor, or the Leiutenant of the County, or ſome Iuſtice of aſſize, reſiding in thoſe parts for which the Commiſſion is prayed; To conſider of them, That they be not put in for priuate ends; And vppon the returne of ſuch opinion, his Lordſhip will giue farther order for the commiſſion to paſſe.

No new Commiſſion for *Sewers* ſhall be granted while the firſt is in force, except it be vppon diſcouery of abuſe or fault in the firſt Commiſſioners, or otherwiſe vppon ſome great and weighty ground.

No Commiſſion of *Banquerupts* ſhall bee granted but vppon *Petition* made to the Lord *Keeper* or Lord *Chancellor*, and the names of thoſe that are deſired for Commiſſioners ſhall be preſented therewithall: of which his Lordſhip will take conſideration, and alwayes ioyne ſome perſons ioyned in the Law, with the reſt that ſhall be allowed; yet ſo as care bee taken, that the ſame perſons allowed, bee not too often vſed in ſuch Commiſſions, And likewiſe, that Bond be given with good Sureties, of the penalty of two hundred pounds at leaſt, to proone the partie againſt whom the Commiſſion is ſued forth

sooth to a Banquerupt.

No Commission of *Delegates* in any case of weight shall be awarded, but vppon *Petition* preferred to the Lord *Keeper* or Lord *Chancellor*, who will name the Commissioners himselfe; to the end that they may bee persons of fitting quality, having regard to the Weight of the Cause, and the Dignity of the Court from whence the *Appeale* is.

Any man shall be admitted to defend in *forma pauperis* vpon Oath.

But the Complainants are ordinarily to be referred to the Court of *Requests*;

Or to the *Prouinciall* Counsailes, if the case arise in their Iurisdictions;

Or to some Gentlemen in the Country, except it be in some speciall cases of commiseration, Or *potency* of the aduerse party.

Suites after Iudgement, must bee brought, according to his Maiesties Order beeing vppon *Record*.

Licences to collect for losses by Fire or by Water, are not to be granted but vppon good Certificate, And they are rarely to be renued: And they are euer to bee directed vnto the County where the losse did arise, if it were by Fire, and the Counties adioyning vnto it as the case shall require: And if it were by Sea, Then, vnto the County where the Port is from whence the Ship went, and to some Counties adioyning.

No

No exemplyfication shall bee made of any Leters Patents *inter alia*, without omission of the generall words; Nor of records made voyd or Cancelled, Nor of the *Decrees* of this Court not Inrolled; Nor of *Depositions* by parcels or fractions omitting the residue of the said *Depositions*; Nor of *Depositions* in Court, to which the hand of the Examiner is not subscribed; Nor of Records of the Court, not Inrolled nor fyled; Nor of Records of any other Court, before the same bee duely certified to this Court, and orderly fyled heere; Nor of any Record vppon sight and examination of any Coppy in Paper; But vpon sight or examination of the Originall.

I will withall set downe the very words with which the Author concludes these last recited Orders; because you may accordingly giue them extent, dimention, and valuation.

The Words are these, (viz.)

BEcause Time and Experience may discouer some of these Rules to be inconuenient: And some other fit to bee added hereunto; Therefore his Lordship intendeth in euery such case, from time

time to time, or publish such *Reuocations* or *Additions*, as they shall offer themselues.

Howsoeuer I take it, there is not much alteration had in them; it may bee there is some addition: But for the *Roles* side (as vnto the making of *Decrees*, and granting of *Iniunctions*) which was heretofore exercised alike there, as in Court, or on the Lord *Keepers* side (which I conceiue grew by the conioyning of the Lord *Keepers* Office, and Master of the *Roles* in the same person) I cannot say how the case stands at this present, hauing withdrawne my selfe now these seuen yeares past, from any practice in the Lawes in any kind.

And because the Confirmation of Ordinances and by-Lawes, made for the better gouernment of Societies Incorporate, doe for the most part passe through the hands of the Lord Keeper, *or Lord* Chancellor *for the time being, according to the Statute of the nineteenth of* K. Henry 7. *Therefore, and for that it is onely the path of a very few trauelling in the Lawes; I thinke good to write according to mine owne Practise therein (as followeth)*

IF a Corporation be newly erected, and is to haue also Ordinances *de nouo*, made for the better

better gouernment of their Company, or Body. They must first make a perfect draught of them by aduice of Counsaile in a Paper-booke.

Your Counsaile would be both learned in the Lawes of the Land, the Prerogatiue of the King, the Subiects right, and the Priuiledges, Powers and Customes of the great body of the Citie, or Towne corporate, wherein you are subincorporate as Brethren of a Trade, Mysterie, or Occupation. I

For any Ordinances made either against the Lawes of the Land, or the Prerogatiue, are not onely voyd in themselues, but further punishable in those who execute them, notwithstanding any confirmation whatsoeuer. And therefore commonly in all Patents and Charters of Incorporation, there is a speciall clause of *prouiso* in this point and to this purpose.

And I doe herein indigite at two manner of Ordinances, vnder which the Commonalties of corporation do much grone and complaine their pressures.

The one is a presumption and intrusion vppon the Birth right of a Free borne Subiect (*viz.*) the Imprisonment of their Bodies, for breach of an Ordinance of their company (a thing most vnlawfull, and vnreasonable, and yet too frequently practised by too many of them.) For colour whereof, I haue seene a Warrant *Dormant* lying in the Halls of some Companies, vnder

vnder which they subscribe the names of whom they list to commit; and then deliuer him to an Officer, who attends them at their Court for the purpose, and so it is not pretended to bee their owne act, but the will and commandement of a greater Magistrate.

Or an intrusion vpon the Subiects Birth-right, by denying him to seeke Law and Iustice before the King, the Fountaine of Iustice, at his Court at *Westminster*.

Or to set vp and vse his Trade, after he hath attiued at his Freedome by honest seruice, according to the Lawes of the Land, and the ancient custome of the place.

Or to take a Houle for his best conuenience, aduantage and accommodation of his Trade:

Or the like.

The other Agrieuance which I point at, is a Consumption and effusion of the purse and estate of the Subiect, by grieuous Fines, Amercyaments and Impositions, and by laying of Offices vpon them, which draw great expence, in Feasting and profusenesse; of which I shall take occasion in a more fitting place, to speake and write at more liberty.

I proceed with my Direction in the passing of any such Ordinances.

The Paper-booke being perfected by such able Counsaile, you are to draw your Petition in the names of the Master and Wardens, in name,

and in the behalfe of the whole Company, to bee directed and deliuered with the ſayd Booke to the Lord *Keeper* or Lord *Chancellor*, deſiring; Whereas it hath pleaſed his Maieſty ſo to Incorporate you, and to giue you power to make Orders & Conſtitutions for your better gouernment; which Orders are by the Statute of the nineteenth of King *Henry 7.* to bee peruſed, examined, and allowed by the Lord *Keeper*, Lord *Treaſurer*, and the two Lord Chiefe Iuſtices of either Bench, or three of them at leaſt; which prouiſion you are ready to obſerue and performe on your parts.

It may therefore pleaſe his Lordſhip to giue order to the two Lords chiefe Iuſtices, to perʋſe, examine, and make the ſame fit and worthy the confirmation and allowance of his Lordſhip, and themſelues, &c.

Hereupon, his Lordſhip will giue order vnder your Petition: That the two Lords chiefe Iuſtices doe accordingly peruſe, examine, and make them fit, as is deſired.

They the ſaid Lord chiefe Iuſtices doe by vertue of that Order and Warrant peruſe the ſame; and after they haue ſo altered, added, or ſubtracted, as they ſhall thinke fit.

Then their Lordſhips giue order to one of their owne Clerkes, to write them ouer faire againe into a Paper-booke coppy-wiſe. Which when they haue exactly examined with the former

mes so by them reformed, They subscribe the same, and send them sealed vp backe againe to the Lord *Keeper*: who vpon the opening thereof, and sight of the approbation of the Lords chiefe Iustices, doth likewise giue order in writing, at the Foote of the said Booke subscribed with his hand, That the same bee forthwith faithfully ingrossed in Parchment (and in the *Chancery* hand) by such an one as it shall please the two Lords chiefe Iustices to appoynt thereunto. And that they giue him testimony of the due performance thereof, by the confirmation of the same under their seuerall hands and Seales, and so the Lord *Keeper* seales the Booke vp againe, and returnes it to the Lords chiefe Iustices, who giue direction for the engrossement, according to the order aforesaid.

And when the same is so engrossed, and examined with the Paper-booke, they set their seuerall hands, and Seales thereunto, and deliuer it to yourselues, to carry to my Lord *Keeper*. Vpon sight whereof hee vseth also to Seale and subscribe the same.

But I pitty the case very much, that there is no Inrolement, Record, or Register, of any such Ordinances kept in any place, the rather for so many thousands of people are governed by them, being Law to which they can haue no recourse, nor can consequently take the true measure, by which they should fashion their man-

manners, to fit smoothly to the body of the Ordinance.

It is not the reading of them once in a yeare in parcels and curiorily, can take impression in the most learned of them (if there be any such) much lesse in the generall sort.

I hope that succeeding times will looke into this euill, euen in the greatest bodies incorporate, and giue it a fitting redresse.

And so much shall suffice for such Ordinances.

I now returne to my other scattered pieces which I haue gathered together, and fasciculated into the little bundle following.

Instruction how to sue a Recognizance *taken in* Chancerie.

IF you would sue a *Recognizance* that is taken heere.

When it is Forfeited, you are to bring a Copie of the same to one of the Clerkes of the *Petty-bagge*; And he will thereupon make you two Writs of *Scire facias*: The one of a *Re-*

turne

turne past (if you will:) and the other of a *Returne* to come. These you must deliuer to the Sheriffe of *Middlesex*, who will returne them, as the Law requireth him to doe in this case.

And when they are returned, you are to carry them againe to the *Petty-Bagge*.

And to reteine one of the Clerkes there to be your Attourney herein.

And then giue the Defendant a day to appeare: which if he doe not accordingly, a Iudgment is to bee awarded against him for his said default.

And if he doe appeare by the day to him so giuen; Then are you the Plaintiffe to *Declare* against him the Defendant, and hee is to answere and plead to you heere, as is vsed in other Courts of Common Law.

And when you are at full issue vppon the *Venire facias*, you are to haue your Witnesses, and this is the vtmost extent of the proceeding heere in *Chancery*.

For then if you will goe to Tryall, you must haue the whole proceeding heere written into Parchment; and it must eyther bee sent by the Officer of the *Petty-Bagge*, sealed vp to bee tryed in the *Kings Bench* or *Common-pleas*, (at your election) or else it may bee deliuered ouer vnsealed, by the Lord *Keeper* or Lord *Chancellour* which is agreeable with the words, *se propria manu, &c.*

Where note, that there can bee no Tryall by Iury here in *Chancery*.

Instruction how to sue a Statute Staple forfeited here.

IF you will sue a *Statute Staple* here:

You must first goe to the Clerke of the *Staple*, and shew him the date of your *Statute*, when it was acknowledged, which may also appeare by the *Statute* it selfe.

And then he must make your *Certificate* thereupon, and seale it vp.

Then are you to goe with it to the Clerke of the *Crowne*, and to get him to make the *Exigent* therein.

You must deliuer to the Clerke of the *Crowne* your *Certificate*, You must then haue your Obligation made; and your *Extent* to bee made and endorsed on the backside, as is vsed in such cases. This endorsement of the *Extent* is called the Fine of the *Extent*, which must bee deliuered vnto the Sheriffe: who by vertue thereof is to impannell a Iury, to enquire, extend, and apprehend as well the Body, as the Lands, Goods, and Chattels of the party so bounden.

And when they be so extended into the Kings hands; the Sheriffe may keepe them vntill you bring him a *Deliberate*, which you are to haue

haue from one of the Clerkes of the *Petty-Bagge*.

Note alſo, that it concernes you to take good heed how you ſue out this *Deliberate*. For if there be not ſufficient eſtate or goods extended, wherewith to ſue your *Statute*, and you ſue your *Deliberate* of theſe Lands and Goods, &c. extended you ſhall neuer haue more then was firſt extended, and deliuered.

Wherefore if you doe underſtand or can conceiue that there be more Lands or Goods, extendible in any other place elſewhere, you are to get them likewiſe to be extended, and when you haue ſufficient, to ſue out your *Deliberate*, then you are to deliuer vp your *Statute*, before you haue your ſaid Writ, becauſe otherwiſe the Clerke of the *Petty-Bagge*, will make you no deliberate at all.

The way how to ſue foorth a Writ of Supplicauit, *whereby the partie ſued ſhall not bee releaſed till the partie grieued pleaſe.*

FIrſt, you muſt take your corporall Oath before a Maſter of the *Chancerie*, that you doe not deſire it for any Malice, Hatred, or Enuy to the party: but for your owne quietneſſe and ſafety, Whereupon you ſhall haue a Warrant to lead your ſaid *Supplicauit*, and thereuppon conſequently the Writ it ſelfe, ſo ſoone as the ſame may be written and ſealed.

After you haue the ſame granted, you may ſue out of the *Chancery* a Writ of *Certiorare*, which you ſhould vſe in this manner, (*viz.*) When you haue delivered your *Supplicauit* to haue a Warrant thereupon for the arreſting of the perſon ſued, and haue got him likewiſe arreſted, you muſt keepe your *Certiorare* very ſecret and unknowne vnto him, till hee haue put in Bond or Recognizance thereupon, with Sureties (as the caſe requires.)

For if hee take notice of it, Then hee will lye in priſon vntill hee haue procured a *Superſedeas*

ſedeas vnto your *Supplicauit*, which if he doe, your *Certiorare* is of no force or vſe. Wherefore it concernes you to haue care herein.

And when the party is Arreſted, and hath put in Sureties to the Sheriffe or Iuſtice, who granted the Warrant vpon the VVrit; And the party hath giuen Bond with Sureties; Then doe you deliuer your ſaid *Certiorare* vnto them that tooke the Bond, And thereupon they are tyed to certifie the ſame vp accordingly.

So conſequently ſhall he ſtand bounden in ſuch manner, vntill you pleaſe of your owne accord to releaſe him.

This hath beene a practice very frequent heretofore. And yet it appeareth by an eſpeciall order made of purpoſe to obuiate this courſe, which Order I haue before recited in theſe Collections, There was both care and prouiſion taken for redreſſe and reformation in this particular caſe.

Inſtructions how to ſue forth a Superſedeas *vpon the former Writ of* Supplicauit, *or the like Writ.*

FOr that it cannot bee knowne but by ſearch and expence to the party againſt whom the VVrit for *Peace* or good *Behauiour* is ſued foorth, In what Court the ſame is ſo ſued,

vntill he be arrested for the most part; whether it be out of the *Chancerie*, or the *Kings Bench*: wherefore to avoyd that euill of being bound, Hee may sue foorth and haue his *Supersedeas* euer in readinesse about him, if hee suspect any such practice bee intended against him (as aforesaid.)

The *Supersedeas* must be sued forth thus, (*viz.*)

You shall rather in the *Chancerie*, then on the *Kings Bench* side, enter into Bond with Sureties *gratis*, with condition that you shall keepe the Kings peace, or be of the good behauiour, during such time as for which you shall so binde your selfe, and as the occasion shall require: For if you suspect that your Aduersary will haue the Writ onely to binde you to the Peace, then a *Supersedeas* will serue onely for the Peace; if for the good behauiour, then your *Supersedeas* must bee for the good behauiour; if both, for both.

When you haue so bound your selfe with Sureties; or Sureties in your absence haue so vndertaken (as your *Manucapters*) for you before a Master of the *Chancerie*, you may haue Warrant, And vpon the Warrant, your Writ of *Supersedeas*, so soone as the same may be written and sealed.

And for your better ease, and direction in any of these cases of suing foorth a *Supplicauit* or *Supersedeas*: enquire for, and addresse your selfe to the proper Clerke of the *Supplicauit* Office, which is ever kept, in or nere vnto *Chancery Lane*, and

and at this instant, at the *Rain-bow* neere to the Inner Temple gate.

I doe aduise you to sue forth your *Superseadeas*, rather out of the *Chancery* then the *Kings Bench*, for these reasons, (*viz.*)

The Condition of your Bond in *Chancery* doth not tye you to make any appearance at the determination of your time limited for peace or behauiour, But in the *Kings* Bench it doth.

And if you doe not appeare there accordingly, your bond is duely estreated, & now more strictly prosecuted then euer heretofore.

Besides, if you doe appeare according to the condition of your Bond; there is then a great charge which falls vpon you of course, for the withdrawing of your Bond, which dyes in *Chancery*; or at least it requires no retraction there.

Besides, the *Superseadeas* is in some case more potent, being taken out of the *Chancery*, then out of the *Kings Bench*; For notwithstanding the Writ to binde bee taken out of the *Chancery*, and beare *Test* before, yet the *Superseadeas* out of the *Chancerie*, is sufficient against it howsoeuer: But I make question whether the *Superseadeas* of the *Kings Bench*, will ouer rule the *Supplicavit* of the *Chancerie*, bearing date before it, or no? I am perswaded (and as I remember) I haue met the experience of the priuiledge of *Prioritie* in the *Chancerie* Writ in this kind: Neuertheless I leaue it to the farther consideration of him that

that desires to buy a farther experience with farther expence herein.

Note also that you may haue your *Supersedeas* to supercede one, or more, or all persons whatsoeuer at your owne election.

And so much for Writs of Peace and Behauiour.

FOr the Amplitude of this Court, you shall note, that it extendeth it selfe into a larger dimension then *Smiths Common-wealth* does demonstrate, both in limnes and liuelyhood: especially in those two members of it, (*viz.*) the *Petty Bagge* and *Consitorie*; in both which, what Booke doth scent it ouermuch.

For besides Offices *post mortem*, which is onely attributes to the *Petty-Bagge*: This office hath.

The making out of all Writs of *Summons* to the Parliament:

All Latine Pleadings of the *Chancerie*, concerning the Question of any Patent or other thing whatsoeuer which passeth the great Seale:

Or whatsoeuer priuate Deed betweene Subiects, which is acknowledged in *Chancerie*, before the Lord *Keeper*, the Master of the Rolles, or any the Masters of *Chancery*.

With Statutes and *Recognizances* taken in this Court:

Or transmitted hither.

With

With all ſuites for, or againſt any perſon priuiledged in the *Chancery*.

Beſides, it is a hand whereby to tranſmit diuers things from the *Riding* Clerke, and the Inrolement Office, to the Chappell of the Roles.

And briefly, it hath ſuch variety of buſineſſe, that the place requires more learning and ability of Clerkeſhip then any other Office, ſaue that of *Prothonotaries* of the *Common-Pleas* onely (in my opinion.)

And for the *Curſitors* of the *Chancery*, They make both the originall Writs of the *Chancerie*, and of the *Common Pleas*: The Originals of which Court of *Common-Pleas*, I referre to the proper place, where I ſhall haue more occaſion to ſpeake of them hereafter.

Theſe *Curſitors* were incorporated by *Queene Elizabeth*, by the name of the foure and twenty *Curſitors*: amongſt whom, the buſineſſe of the ſeuerall Shires is ſeuerally diſtributed, and therefore you muſt, in all caſes where your ſuit is ſo localland tyed, to the certaine County, addreſſe your ſelfe to the proper *Curſitor* of the ſame.

If any ſuite depend before any Sheriffe in his Tourne or County Court, you may haue a Writ of *Chancerie* from the *Curſitor* of that County; called a *Recordare*, to remoue it.

If it lye in a Court Baron, your *Curſitor* will call it away with an *Accedes ad curiam*.

If it lye in Towne Corporate, hee will re-

moue it with a *Certiorare* returnable in *Chancery* (as aforeſaid,) which may bee made of courſe, without any Bill exhibited.

And a *Procedendo* may be made alſo preſently thereupon, before the Returne of the ſaid *Certiorare*, and that of courſe likewiſe.

And alſo a ſecond *Certiorare* and a ſecond *Procedendo* thereupon may be made, But the ſecond *Procedendo* ſhould be vpon a Bill exhibited, ſhewing good cauſe of equity why the Complainant ſhould be relieued.

And vpon Bond giuen by the Complainant or ſome other for him, with condition that the Complainant ſhould prooue the Contents of the ſayd Bill, the Court of *Chancery* doth often grant a ſpeciall *Certiorare*, ſigned with the hands eyther of the Lord *Keeper*, or of the Maſter of the Rolles for the time being.

And the condition of this laſt recited Bond, giues the Obligor onely the liberty of foureteene dayes to proue the Contents of the Bill, which fourteene dayes muſt commence from the date of the returne of the ſaid *Certiorare* to be granted, (as aforeſaid.)

THE

The Fees of proceeding in Chancery follow.

	l.	s.	d
Sub Pœna Writ to answere	0	2	6
If there be three in the *Sub pœna*, you pay sixe pence the more.	*tot.* 0	3	4

This *Sub Pœna* may bee serued in any libertie whatsoeuer, So cannot an Attachment.

The charge of drawing your Bil in the next which your counsaile at Law, must doe according to the Instruction which you shal gine him of the true estate of the cause. His Fee is at the least	0	10	0
For the engrossing of your said bill foure pence a sheet at the least	0	0	4 *a sheete.*
The Copy *inde*, two pence a sheete at the least	0	0	2 *a sheete.*
The Attourneyes Fee when you put it in, which is for the whole Terme	0	3	4
The writing of the Oath made that the *Sub pœna* was serued,	0	0	6
The Oath.	0	0	4
The Attachment where the Defendant appeareth not.	0	2	10

	l.	s.	d.
The breaking of it vp with the Sheriffe	0	1	0
The Returne of that Attachment.	0	0	4
The Proclamation of Allegeance vpon the same.	0	2	10
The breaking of it vp with the Sheriffe.	0	2	6
The Returne of that Proclamation.	0	0	4
The Commission of Rebellion.	0	18	1
The *Rule* which the comp'ainant giues to the Defendant to make answer by a certaine day, in case where the Defendant doth appeare.	0	0	4
The Attachment, The Proclamation, Commission of Rebellion	For not answering, as in case for not Appearing.		*as aforesaid.*
The Defendants Appearance.	0	4	4
This is also his Attourneies Fee for the whole Terme,	0		*Feod. Attourn.*
The copy of the Bill, at eightpence the sheete.			*Eight pence the sheete.*
His Counsailes Fee for drawing his Answere; according to his direction at the least.	0	10	0

For

	l.	s.	d.
For engrossing of this answere, at foure pence the sheete at the least.	0		*foure pence the sheete.*
For Copy of this answere, at two pence the sheet at the least.	0		*Two pence the sheete.*
For the Oath made that this answere is true.	0		4
For euery Defendant 4.d. *pro consimil*			*quilibet Def. pro consimil.*
For the Commission to take the Answere in the Country by *Dedimus potestatem.*	0	7	10
Besides the engrossing of the bill which is included within it.			*euery sheete inde,* 6.d.
The *Sub Pana* for Costs, giuen to the Defendant in case where the complainant doth not put in his Bil within the time allowed.	0	2	6
For a Bill of Costs and entry of it *inde,*	0	1	4
The *Attachment, Proclamation,* and *Commission of Rebellion.*			*as in case aforesaid.*
A Ioynt *Commission* to examine Witnesses in the Country, *per* peece.	0	7	10
A *commission ex parte,* to examine witnesses in the Country.			*The party beares both parts of the charge.*

	l.	s.	d
For examination of the first Witnesse here before examiners.	0	2	6
For euery witnesse examined afterwards.	0	3	6
For drawing of the *Replication*, if it be done by Counsell, as in case for the Bill,	*as for the bil.*		
For the *Reioynder*	0	6	*the like.*
If there be no new matter in the *Replication* of the *Reioynder*, your Attournies Clerk will draw them for you of course, for some small matter.	*as you can agree.*		
For the Copies of the Depositions of any Witnesses returned by Commission.	*euery sheete* 0	0	8
For a Motion in Court.	*Counsaile Fee.*		
For the drawing of the Order thereupon *cum Cop.*	*euery side,* 0	3	0
For entring of the Order	*euery side.*	6.d.	

Fees

Fees of an Iniunction follow.

	l.	s.	d
INiunction in all *vijs & modis.*	1	3	6

Fees of a Decree follow.

FOr a Decree the Drawing &c.	*as in case of an order.*		
Sub Pœna to Testifie	0	2	6
Sub Pœna to *Reioyne.*	0	2	6
Sub Pœna to heare *Iudgement:*	0	2	6
For getting the *Hearing* to be set downe.	0	*as you can agree with your Attourney.*	
For the *Rules* to publish the witnesses, being foure.	*per* piece	0	4
For copy of *Replication, Reioynder, Rebutter*, and *Subrebutter*, as for copy of Bill or Answere.	*as aforesaid for Bill and answere.*		
Sub pœna super ordinem to shew cause	0	7	0
Sub pœna of *Ducas tecum,*	0	7	2
Sub pœna de executione ordinis	0	10	0

The

The charge of a Supplicauit *in* Chancerie.

	l.	s.	d.
Item, the Oath.	0	0	4
Item, the *Supplicauit* it selfe.	0	5	6
Item, the warrant vpon it, *vic.*	0	2	0
Item, or the *Certiorare* to certifie the Bond taken vpon it.	0	2	6

Charge of a Supersedeas *in* Chancery.

TO the Master of the *Chancerie* for taking of his Baile.	0	2	0
For the Warrant.	0	2	0
For the Writ.	0	5	6
For the allowance of it.	0	2	0

These sayd Fees be onely of the case of a single person, and for the peace onely.

But if it be of more persons, or for behauiour, as well as the Peace, then the charge is accordingly enlarged;

THE

The Fees of all Originall Writs ſealed in the Chancerie.

A

	l.	s.	d.
Accedas ad curiam.	0	2	7
Admenſuratio paſture.	0	5	7
Ad quod damnum.	0	7	2
Annual reddit.	0	1	6
Aſſiſ. Cuiuſq; generall.	0	5	6
Attinct.	0	7	6
Audita querela.	0	7	2

B

Certiorare.	0	1	6
Ceſſauit.	0	2	6
Conſpiracy.	0	5	6
Contentione.	0	2	6
Coronatur. elegend.	0	7	2
Cui in vita.	0	2	6
Cur claudend.	0	2	6
Comperuit.	0	2	6
Sum. bre. de Couenant.	0	2	6

D

	l.	s.	d.
Dlem clausit extremum,	0	2	6
Dedimus Potestatem super bre de. Con Dot.	0	2	6
Special. Dedimus potestatem,	0	7	2
Original. de Debt & detinew,	0	1	0

E

Elections firme,	0	2	6
Eiection Custod.	0	2	6
Excommunicat. Capiend.	0	7	6
Execut. in De.	0	2	6
Expenc. nullat.	0	7	2
Error in London.	0	7	2
Patent inde	0	7	2
Elegit.	0	10	0

F

Also Iudicio.	0	2	6
For fac. Maritag.	0	2	6
Forma Donationis.	0	2	6

H

Hered. Cap.	0	2	6
Con. Repleg.	0	5	6

Leproso

	l.	s.	d.
L			
Eproſo. amouendo.	0	5	6
Libertat. proband.	0	5	6
Libertat. allocand.	0	7	2
M			
Odcrat.	0	2	6
Maintenand.	0	2	6
Minus.	0	2	6
Monſtrauerunt.	0	5	6
Mittimus.	0	2	6
Mandamus.	0	7	2
N			
Ocunt.	0	2	6
Non moleſtand.	0	2	6
Non omittat.	0	5	6
Non Ponend in Aſſiſe.	0	7	2
O			
Officiar. non faciend.	0	5	6
Ordinar non ſeruiend.	0	2	6
P			
Act. fract.	0	2	6
Partic. faciend.	0	2	6
Paten. bre. de errore corrigend. in Aſſis. attinct.	0	7	2

	I	l.	s.	d.
Pleg. acquietand.		0	2	6
Pone.		0	2	6
Perambulat faciend.		0	5	6
Palibus reparand.		0	2	6
Poſt deſſeiſin.		0	2	6
Precipe in Cur.		0	2	6
Procedend.		0	2	6
Prohibition.		0	2	6
Propriat proband.		0	7	6

R

Recte clauſ.	0	2	2	
Recte patent.	0	2	6	
Reaiſſeiſin.	0	7	2	
Reparatio Pontiũ vtarũ domini.	0	2	6	
Repleg. Originall.	0	1	6	
Reſcous	0	2	6	
Recordare.	0	2	6	

STV

Significauit.	0	7	2	
Bre. de eſtat.	0	2	6	
Sub pœna.	0	2	6	
Superſed. inde.	0	7	2	
Superſed. propace.	0	5	6	
Superſed. omn. al.	0	5	6	
Tranſ.	0	1	0	

Tranſ.

	l.	s.	d.
Transf. super casum.	0	2	6
Valore Maritagij.	0	2	6
Vasc.	0	2	6
Villat remouend.	0	2	6
Vitar. eligend.	0	2	6

W

Warrantia charta.	0	2	6
Warrantia Diei.	0	5	6
Witbernam.	0	5	6

And so much of the Originall Writs issuing out of the *Chancerie.*

I Must acknowledge that I haue omitted the Records enrolled in the Chappell, and those that are either in the hand of the *Controler* of the *Seale* and riding Clerke, or else in the middle of their iourney, trauelling ouer to the Chappell, because they are an homogeneall part of my former *Tractate*, touching Direction for *Search of Record*, which I shall by (Gods assistance) both perfect and amplifie with my best and first opportunity hereafter. And as I haue also omitted a small colation which I haue made out of the *Petty-Bagge* and other places, of the seuerall Stiles of all Townes Corporate in *England* and *Wales*, according to their seuerall Patents of Incorporation; with the Stiles of all

other Ministers of any Courts, to the which any Attourney may haue occasion to direct his Writs of *Habeas Corpus*, and the like in any occasion; Because this last will be a Booke of such continuall vse vnto them, that it is onely fit to be published by it selfe in such a small Volume: doe likewise intend to set it forth as a little Cockbote, to this greater Vessell, very speedily, it being already finished.

And thus I conclude with the Court of Chancery, reserving the Fines payable vpon originall Writs, to the practice of the Court of Common-pleas, because they best know the price of them.

THE

THE COVRT OF REQVESTS.

OR,

White-Hall at Westminster.

THis is likewise a Court of Conscience and Equitie.

And the practice thereof is by English Bill, Answere, Replication, and Reioynder, like to the former in *Chancery*.

The forme of their proceeding is generally alike.

Onely, This Court, in stead of the leading Writ of *Sub pœna*, vseth a *Priuy Seale*:

Or

Or otherwiſe to ſummon ſuch as are neerer hand, by their Meſſenger and proper Officer of the Court.

Their Fees in the point of proceeding are for the moſt part alike.

Onely inſtead of two ſhillings ſixe pence for Summons by *Sub pœna*, you pay at the leaſt for Summons by *Priuy Seale*. 8.s.

Or if the Summons be made by the Meſſenger here in towne, you pay to him for his paines. 3 s. 4 d.

For euery party ſummoned,--the like

Beſides for his Warrant to do it, what you pleaſe as I take it. } *ad libitum.*

This great burden at the very entrance into a Suite here, doth much hinder the Court, if they would duely conſider it.

And ſo much for the Court of *Requeſt*.

THE

THE COVRT OF THE PROVINCIALL COVNCELL OF THE Marches of Wales.



His Court of the Provinciall Councell for the Marches of Wales, holds the like forme of proceeding generally and for the most part, as doth the Chancerie before mentioned.

The greatest difference is in the Leading Processe of the same.

And therefore, I shall not need to recite the same thing againe, but proceede in

THE COVRT OF THE PROVINCIALL Councell, eſtabliſhed in Yorke.

THis Prouinciall Councell followes the courſe of proceeding likewiſe vſed in *Chancerie*.

And for your better direction, that you may vnderſtand the Lords Preſidents Powers and priuiledges, in either of the two Prouinciall places, I referre you to their Inſtructions remaining on Record in the *Chancerie*, whereby you may be fully ſatisfied in this point, &c.

The greateſt difference heere likewiſe is in the Leading Proteſſe.

And both the Prouinciall Councels are often ſubiect to the Prohibitions of the Courts at *Weſtminſter*, which makes many of both Iuriſdictions choſe rather to begin their Suites there, then at their owne home.

THE

THE COVRTS OF THE County Pallatine of CHESTER: Countie Palatine of *Lancaster*; Countie Pallatine *Duresme*.

AND The *Chaneerie* of LONDON; with the *Exchequer Chamber*, Westm.

IN the formalitie of their proceeding they doe all imitate the practice of the Chancerie, *before set forth and declared, admitting onely some small mixture of the Common Law in some speciall Cases. And on some things they are led by their proper Customes and prescriptions respectiuely:*

So that he who is a sufficient practitioner in our great Chancerie, *may bee able and worthy the admission into any Court of English proceeding whatsoeuer or whereseoeuer.*

I make the next gradation to Courts of Common Law; And both for mine owne ease, and the bene-

benefit to the Reader, I will begin at the Court of Common Pleas, as the onely Leader to all other Courts, for all kinds of matters appertaining to the Common Law, Otherwise, if I did begin with the Kings-Bench, for the priority and dignity thereof, I should runne into this inconvenience, that I must bee forced to repeat the same thing over againe in personall Actions, and mixt actions; both which the Kings-Bench admitteth and holdeth.

&c.

THE

THE COMMON-PLEAS PRACTICE.

FIRST, you are to vnderstand of what nature the Action which you would sue to bee.

If it bee for Debt vpon a Bond, you must take a speciall care that your Originall doe agree with the Bond; For otherwise your proceeding will bee erronious.

And you must make them agree thus: (*viz.*)

London: *Precipe Rico. Scot. nuper de London generos.* (*alias dict.*) As in the Bond *literatim*; and in the same words and Letters as the partie sued is styled and titled in the Bond. *Ea. Them. Smith* twenty pound, &c.

If it bee an Action of Trespasse, or an action vpon the Case; Then you must style and title the Defendant whom you sue thus: (*viz.*)

London: *Si Thomas Smith Fes. &c. Tunc pone &c. Richard Scot. in London generos. ostens. quare*

cum, &c. without any *alias* at all required, to be in such actions.

When you haue made this note of direction, for the drawing vp of your Originall and leading Writ, you must deliuer it to the *Chancerie* man, which is the *Cursitor* for the Shire where you lay the action, to make this your Originall Writ, and to get the same sealed.

This Originall being so made, sealed and deliuered vnto you, your selfe may returne, except the Defendant whom you sue be a Free-holder of the Shire, where you lay your action.

If the Defendant be a Free-holder in the Shire where the action is laid: then you must deliuer your Originall to the Sheriffe of the Shire to returne it.

If the Sheriffe doe returne the Defendant sufficient: then soone after the said Returne, when the Originall is fyled, the Plaintiffes Attourney must goe to the Office of the *Philizer* of the County, and there search and be satisfied whether any Attourney hath appeared for the Defendant or no.

If the Plaintiffes Attourney doe finde that the Defendant appeareth, the Plaintiffes Attourney (if he can) or otherwise some one Clerke of the *Prothonotaries* Office whom he may procure, must draw vp his Declaration against the Defendant, for which purpose the said Clerke must haue the Bond, and take out the Writ into the

the *Prothonotaries* Remembrance, and also must know where the Plaintiffes Attourney will haue the Obligation to be laid for the *Riens*.

When the Declaration is deliuered to the Defendants Attourney: the Attourney or Clerke for the Plaintiffe, is vpon demaund to shew to him the Obligation it selfe, to the end that hee may examine the Declaration with the same, and see and take notice of the Witnesses names, who doe testifie it.

In like manner are you to proceed in an action of Debt vpon an Indenture, or debt due by Testament, or Letters of Administration, you must vpon the Declaration and demaund made, shew the Indenture, the Testament or letters of Administration as the case is, that they may bee conferred together.

And in an action of Debt vpon an Indenture, the Originall must bee made to agree with the Indenture, as in case of an action of Debt vpon Bond, in the second addition of this *alias dist. ut supra*.

The Attourney of the Defendant may, when the appearance is made for his Client, haue Costs, and dismisse the Plaintiffe, if hee doe not declare within foure dayes prefixed.

When the Defendant hath appeared, and the Plaintiffe hath declared, and thereupon the Defendant hath answered, or pleaded, He may giue to the Plaintiffe a day to Re-

Which

Which if the Plaintiffe do not accordingly, Then the Defendants Attourney may discontinue the Action of the Plaintiffe, and make him to begin anew.

And if the Defendant be returned sufficient, and no Attourney appeareth for him vppon the Originall: Then the Plaintiffes Attourney must put his name to the *Philizers* booke, called the *Remembrance*, where the *Originall* shall bee taken out: And marke the same *Remembrance*, when his next Proceſſe which is *Pone* shall bee returnable.

This next Proceſſe he must ſeale and deliuer to the Sheriffe.

And if at the day of the Returne thereof, no attourney doe appeare for the Defendant: Then the Plaintiffes Attourney must in like manner marke the Remembrance, and take out another Writ against him called a *Diſtreſſe*, and ſo the Plaintiffe may ſue out *Diſtreſſe* after *Diſtreſſe*, vntill ſuch time as the Defendant doth appeare.

And if the Sheriffe ſhall returne ſuch ſmall iſſues for fauour, as whereby the Defendant is encouraged to ſtand out, and will not appeare: Then the Plaintiffes Attourney himſelfe may moue the Court for increaſe of *iſſues*, or elſe Amerce the Sheriffe.

If the Defendant haue no Free-hold within the Shire where hee is ſued: The Plaintiffes Attourney muſt returne the Originall

Writ

Writ in Debt or Treſpaſſe on the back-ſide thus: *(viz.)*

Pleg. de proſequendo
Doo.
Richu Roo.

Infra. nominat *Richardus Scot*, Nihil habet in baliua mea vnde poteſt
Summ.
Iohannes Smith, *mile vic.*

IF the Originall bee in the treſpaſſe vpon the Caſe, Returne it (as aboue) ſauing in ſtead of *vnde poteſt Summ.* let it be *vnde poteſt diſtrah.*

The Returne of the ordinary proceſſe of *Capias* to the *Exigent*, is *Infra nominatus* Richardus Scot, *non eſt inuentus in baliua mea.*

There muſt bee alwayes betweene the *Teſte* of the Originall, and the Returne thereof, full fifteene dayes *incluſiue*, at the leaſt.

And ſo of the *Cap. alias Cap.* and *plus. Cap.*

And betweene the *Teſte* and the returne of euery *Exigent*, there muſt be fiue County Court dayes, or fiue dayes of the Huſtings, as is vſuall in this kind of buſineſſe.

The *Exigent* and *Proclamation* must both bee the same *Teste* and the same Returne.

An *Exigent* in the Countrey hath fiue County dayes for his Returne (the County Court being kept onely once in a Moneth) and so consequently it requireth fiue Moneths.

But in the Hustings in London, the Returne is much speedier.

And if the Defendant do not appeare by *Supersedias* before the fifth County day, or day of Hustings (as the *Exigent* lyeth) then he is, vpon the fifth Exact. returned vtlawed.

You must haue care withall that vpon the Returne of the *Plur. Cap.* precedent, it bee duely filed.

At the going forth of the *Exigent*, you must make your Warrant of Attourney on this manner, (*viz.*) *Willielmus Wild generosus, Pl. pone. sua v. I. T. vers. Iohan. Flodd de Branford in Com. prad. Yeom. de plac. debit.* or *de plac. transf.* as the action is ; this you must deliuer to the Clerke of the Warrants.

The Defendants Attourney is to put in his warrant of Attourney vppon the *Issue*, or vppon the *Demurrer*, and not before.

If the Sheriffe haue the *Cepias*, *alias Cap.* and *Plur. Cap.* deliuered vnto him and shall returne a *Cepi Corpus* vpon any of them, then the Plaintiffe shall haue no farther Process against the Defendant.

If vpon any such Returne no Appearance shall bee made on the defendants part, then the Plaintiffes Attourney must goe to the *Philazers* or the *Prothonotaries*, and get the same Writ or the Returne thereof taken out; And then giue to the Sheriffe Day to bring in the body of the Defendant, or else be amerced at the discretion of the Iudges.

And if the Sheriffe doe not bring in his prisoner by the day giuen, then the Plaintiffes Attourney is to get the Amerciament to be *Estreated*, And to sue out a Writ of *Habeas Corpus* to bring in the body of the prisoner.

And if the Sheriffe who did so arrest the Defendant, be out of his office before hee doe returne your said *Habeas Corpus*, and the Defendant appeareth not yet; then you are to sue forth *Distringas super vic.*

The *Philazer* vppon making out of the first *Capias*, enters into the Role an *Appesar*, So that it may appeare vpon Record: which *Appesar* the Plaintiffe may continue for a Terme, two, or more if he please.

And their Common Proceesse must haue at the least fifteene dayes betweene their *Teste* and Returne.

If Proces remaine vncontinued by diuers Termes, and no exceptions bee made thereof by the Defendant; the same may bee continued by the Plaintiffes Attourney, paying to the *Philazer*

master or his Clerke for euery continuance, foure pence per pesse.

And if the Defendant dwell in one County, and the Suite be commenced in another; Then there must goe forth a Proclamation vnto the Sheriffe of the County where the Defendant doth dwell at the time when the *Exigent* is awarded; And this Proclamation must beare *Teste* and Returne with the *Exigent*, and both must be returned (the Defendant not appearing.)

And if the Defendant doe put in *Supersedeas* before the returne of the *Exigent*, then the Plaintiffe needs not care for the Returne of the Proclamation.

And if the Defendants Attorney come not to the *Prothonotaries* Clerke, and take a Copie of the Declaration, and make an answere to the same within nine dayes after the Returne of the *Exigent*, Iudgement shall be awarded against the Defendant.

And if the Plaintiffe doe not make his Declaration ready within foure dayes after the returne of the *Exigent*, Then the Defendant may call the Plaintiffe *nonsuite* and recouer his Charges.

And if the Defendant wil haue a *Supersedeas* vpon *Vltimo prius*, It must be sued out of the Clerke of the Treasury his Office vpon Sureties, That if the Defendant make default, he shall pay the Suite.

If the Sheriffe returne to small *Iſſues* vppon *Diſtreſſe*, the Plaintiffe may haue *Amerciaments* againſt him, and haue him called into the Court to amend the *Iſſue* for the Kings aduantage.

If the Plaintiffe be not ready to Reply vpon pleading, hee may enter *Imparlance*, and giue day ouer vntill the next Terme, vnleſſe the Defendants Attourney preuent him, by giuing to him a Rule and day certaine to Reply.

At the day of *Imparlance*, The Plaintiffe is to call the Defendant, and to giue him a day to plead or anſwere againe, or to make it knowne, whether hee will ſtand to the Plea or Anſwere which he made in the precedent Terme or no?

And if the Defendant doe neither make knowne, that he will then ſtand to his former anſwere, nor anſwere *de nouo* vppon ordinarie dayes giuen vnto him, He ſhall be condemned in the Cauſe: for he cannot then refuſe as hee might vppon an *Alias*.

When any matter is pleaded to an *Iſſue*, The Plaintiffe Attourney muſt haue a care to ſee the *Iſſues* be rightly entered into the *Prothonotaries* Roll, And thereupon put in his Warrant of Attourney, if it bee not in before at the *Exigent*, in manner (as aforeſaid.)

But it is moſt requiſit that the Warrant ſhould be put in vppon the *Exigent* by the Plaintiffes Attourney, for feare leaſt the Defendant ſhould not appeare; but be returned vtlawed.

And the Defendant, in caſe the Plaintiffe ſhall faile to put in his Warrant (as aforeſaid) may ſue error in the proceeding, and aſſigne the want of a Warrant, which is manifeſt error; and thereupon the Plaintiffes attourney ſhall pay tenne pounds.

After the iſſue is entered, the Plaintiffe may ſue forth *Venire facias*, or elſe continue it for a Terme or two.

And uppon the Plaintiffes default by ouerlong delay, the Defendants attourney may ſue forth *Venire fac.* pannell.

Note, that you may enter the firſt *Ven. fac.* returned fifteene dayes after; at which day, the Writ of *Niſi Prius*, with the *Hab. Corp.* is alſo awarded, and the Triall likewiſe (if it bee in London.)

After verdict vppon Triall, the *Poſtea* is returnable in his due time.

Thereupon the Iudgement is entered, and a *Capias* goeth forth firſt into London, becauſe the action is layd in London: This *Capias* is to be returned fifteene dayes after *Non eſt inuentus*, and then goeth forth *Capias* with *Teſtat.* into the Country where the Defendant dwelleth then is Execution ſued out, and not before.

Note alſo, that if the Sheriffe at the day of the *Ven. fac.* doe returne the ſame ſued, then the Plaintiffes attourney may haue a *Hab. Corp.* thereuppon to be made by the Clerke of the Iuries, which

which hee is to ſee well examined when hee fetcheth the ſame away from thence.

And at the Returne of the ſaid *Hab. Corp.* if it be at the Aſſizes, and the Iury fill not at the calling of them, the Plaintiffes Attourney may craue a *Decem tales et circumſtantibus*, Ten the like of thoſe that be ſtanding by, to fill vp the Iury.

But if it be at the *Common-pleas* Barre, He may not craue a *Tales de Circumſtantibus*, but a *Tales* onely, or ſue a *Diſtreſſe* with a *Tales*.

The firſt onely is a *Decem Tales* at the Barre: The ſecond, an *Octo Tales*, if the *Decem* did not fill; So from *Octo* vnto *Quinto*: and from *Quinto* to *Duo Tales*, he muſt deſcend till the Iury be filled, all which the ſaid proceſſe muſt bee taken out of the *Prothonotaries* Office, or the Office of the Clerke of the Iuries, which bee reſpectiuely entered moſt duely.

And if the Sheriffe vpon any of theſe ſayd VVrits doo returne *Tarde*, for want of ſufficient time to warne the Iury, You are to ſue forth an *Al. diſtreſſe*.

Note that if a *Plea* bee pleaded here by the Defendant, and the Plaintiffe haue thereupon replyed: if it bee a plea of a former Terme, the defendant can neuer amend, or with-draw his plea, except it bee in Letters or Syllabes, But if it be in the ſame Terme he may.

For in this Court euery plea is, or ought to bee

be entred in euery Terme as it is pleaded, howsoeuer it is otherwise in the *Kings Bench*.

If the Defendant be returned *sufficient* in an action of Trespasse, A *Distresse* is to be awarded.

And if he be returned *Nihil*, then the seuerall *Cap*: and an exigent be awarded.

If an *Vtlary* bee turned, then lyeth a *Capias vtlagant*, generall, which is for the body onely.

Or else a *Cap. vtlagat*, speciall; which is for the body and goods.

Note, that if you doe sue any of the Nobilitie of the Land, who are of the Parliament House, in any action whatsoeuer, wherein Processe of *Vtlary* lyeth; Although the Sheriffe returne him *Nihil habet*, yet you may not sue a *Capias* against him, but a *Pone*, into the Shiere where his Land lyeth: whereupon if he doe not appeare, he looseth fiue pounds. And after a *Pone*, you shall sue a *Distresse*, and *Distresse* after *Distresse*, *in infinitum*, vntill he doth appeare.

If after the Sheriffe haue taken the defendant vpon a *Cap. ad satisfaciend.* for the Plaintiffe, He suffer him to depart vpon Sureties, or pawne, and commit him not to safe keeping, it shall be said an escape against the Sheriffe.

And then the Plaintiffe may at his election choose whether he will call for the Returne of the Writ, or sue the Sheriffe for the Escape, and recouer his Debt and Charges against him: Otherwise, hee may haue his *Capias* and *Exigent*, and

and vpon the Returne therof vtlaw the Defendant vpon the Iudgement.

After this kinde of *Vtlary*, the Defendant shall neuer haue his pardon, except he first agree with the Plaintiffe, and satisfie him

Also the Plaintiffe may at his election haue a Writ of *Elegit* in this case, to extend vpon halfe the Lands and goods of the Defendant: except Cattell and Oxen for his plough, &c.

But it behoueth the Plaintiffe to take good heede how he sueth forth the said Writ of *Elegit*. For if it be once entred, you shall neuer haue any other Execution.

Also after a Iudgement, the Plaintiffe may haue an Execution of *Fieri facias de bonis & catallis*, and thereby leuey his whole summe that is giuen, with the Costs, or some part thereof, according to the value of the goods of the Defendants which he can find.

And if at the first he be not satisfied of his whole summe, he may sue foorth another *Fieri fac.* and so one after another, till he be fully satisfied of his whole Debt.

Your Processe being in a Writ of *Rescous*, and *Rauishment of a Ward*, as in Trespasse you shall hold like proceedings of *Attach.* and *Distresse*, and for want of *Distresse*, three *Capias* and an *Exigent*.

The like in a *Quare eiecit infra terminum*, & *Ejectione firmæ*, and this was giuen by a late statute

And the like by the same Statute, in a Writ of *Annuitie* and Couenant vpon an Indenture.

But in a Writ of *Entry*, the like proceeding is not, for the Processe is *Grand Cape* and *Petit Cape*.

The *Grand Cape* lyeth, when any of those Writs are deliuered to the Sheriff to summo the Lands, and, if at the returne of the same, the Defendant appeareth not, but maketh default, then the *Prothonotaries* Clerke is to giue a day to the tenant to come in, or else a *Grand Cape* shall be awarded of the Land, whereupon he shall be in the courtesie of the Court, whether they will grant him a *Supersedeas* for the discharge of the same, or no. Otherwise hee is to wage his Law, and depose that he was not lawfully summoned, which if he doe, and it be afterwards proued that hee was lawfully summoned, then hee is in danger of periury.

If the Tenant or Defendant doe not appeare vpon the *Grand Cape*, then a *Petit Cape* is to goe forth, and a day likewise to bee farther giuen, and vpon default of appearance, then the Lands in question are recouered, and thereuppon the *Cape*, is directed to the Sheriffe to seaze the Lands into the Kings hands, vntill farther Proces, &c.

Note that the Defendant is to take great care, that there be no *Essoyne* cast by the Tenants

nants Attourney in this case, for him the said Tenant to appeare.

For if hee haue before that time cast his *Essoyne*, then hee may vpon day giuen, call the Demandant *non suite*, and cause him to beginne againe.

Therefore the Defendants Attourney in this case must especially inuigilate the Office of *Essoynes*, and in *Reall* action to get his Writ fyled, and enter a *Receipitur*, as in a Writ of *Dower*.

Warrentia chartæ, *De droyte*, & *surdisseisin*, haue the like proceeding, because their Processe is also alike.

If you haue Iudgement in any action, and suffer the Iudgement to continue without doing of any thing therein, by the space of a yeare and a day, you shall then be forced by reason of such delay, before you may take out any execution thereupon, to sue out of the Court where your said Iudgement is Recorded, a Writ of *Scire facias*, and after the returne thereof you are to giue a day to the Defendant to come into the Court, and to shew cause why the Iudgement should not be awarded against him vpon his default, whereupon if good cause bee not shewed, the Iudgement is to be allowed, and execution may be taken forth.

In case where the Plaintiffe or Defendant happen to dye after Iudgement and before exe-

cution; Then are the Executors or Administrators of the Plaintiffe to sue out a Writ of *Scire facias*, against the Defendant, his Executors, or Administrators, which being returned, then the Execution of *Fieri facias* at the first, and in case where the Defendant is dead, must bee awarded onely of the goods of the Testator or Defendant defunct; and not of the goods of the Executor or administrator.

This Execution of *Fieri facias*, being deliuered to the Sheriffe to be Executed, if the Sheriffe shall finde that the Executor or Administrator did deuast the goods of the Testator or Defendant defunct; and shall thereupon returne a *Diuastauit*, Then shall a Writ of *Fieri facias* be awarded *de propriis bonis Testatoris*: or *Administratoris*; Or otherwise, execution may bee taken forth against the body of the Executor or Administrator, at the choyce of him that sueth it out.

How to sue a matter of Errour.

IF you would sue a matter of *Errour*, you must either make a perfect true Copie of the Originall, or of the *Exigent* in that cause, and carry it to the *Cursitor* of that Shiere, where the action lyeth, thereby to make your Writ of *Errour*.

When

When you haue your Writ of *Errour* (if it be before Iudgement) you may deliuer it to the Clerke of the Treasurie, whereupon the Attourney for the Plaintiffe is to deliuer vnto you the number of the Roles where euery thing is entred.

And if it bee after Iudgement, Then before you know the number of the Roles, you must shew cause of *Errour* to the Court, or else your Writ will not be allowed.

And in case that when the Writ bee allowed, the Plaintiffes Attourney must deliuer the number of the Roles, to the Clerke of the Treasury: who will deliuer the Writ ouer with the Record.

And then if the Defendants Attourney doe not get his Record to bee certified the same Terme, the Plaintiffes attourney may procure a day to bee giuen in Court vnto him doe it, and to remoue the same.

By which day if the Defendant doth it not accordingly, then hath he lost the benefit of the *Errour*; And after one Writ of *Errour* so put by, the Defendant shall neuer haue any more.

And if the Record be accordingly certified, then the next Terme following, you are to assigne the *Errours* there.

Otherwise there shall goe forth two Writs of *Scire fac.* to be deliuered to the Sheriffe of *Midd.* and to giue you warning to assigne the *Errours*,

which if you doe not within three or foure dayes after the Returne of the latter of the sayd two Writs, the Writ of *Errour* will be quasht, and you shall lose the benefit thereof.

And if one bee vtlawed vpon meane Processe and would reuerse the same by Writ of *Errour*, he must take this course: (*viz.*)

Looke if there be any Writ vnreturned.
Or if any VVrit mis-returned.
Of any VVrit vnfiled.
VVhether the Proclamation be filed or no?
And whether it be well returned:
Or whether a VVarrant of Attourney be put in or no?

All these before mentioned be *Errours*, which before Iudgement the Court will correct themselues.

And if you find any of the said *Errours*, you must goe to the Clerke, and shew him the number Role where the *Exigent* is entred, and cause him to enter the *Vtlary*.

This being done, you are then to get the Bundles where any such Writ is filed to bee brought into the Court, from the Office of *Custos breuium*, where they be kept.

Then you must haue one to enforme the Court therefore on your behalfe.

If the *Errour* which you pretend be for want of a Proclamation, then you are aswell to get the Record

Record of the Terme where the *Exigent* is entred as the bundle of Writs to bee brought into the Court to be reuiewed.

And the like you are to doe of the meane Proceſſe.

And if it ſhall appeare to the Court, That any of the Proceſſe be filed and not returned. Or there be error in the Returne, or there be want of meane Proceſſe, or Proclamation, the Court will award the *Reuerſer* to be entred.

And if the party vtlawd can finde no Error, and yet would vndoe the vtlary, if it be vtlary before a Iudgement; he is to ſue out his Writ of Errour, and thereupon his *Superſedeas*.

Then hee muſt ſue out his pardon of Courſe, and vpon that, Hee may haue a *Scire facias* directed to the Sheriffe of the County where the Originall was laid, to giue warning to the Plaintiffe to be ready in Court to proſecute the action againſt the Defendant, if hee haue any thing to charge him withall.

Hereupon if the Plaintiffe doe not declare againſt him the Defendant within a certaine ſpace giuen to him by the Court, Then the Defendant ſhall bee quit of that action; and the Plaintiffe is to begin his ſuit againe if he will.

But if the party vtlawed haue any goods or Cattell taken by colour of that vtlary, Then he is to ſue out a writ *de non moleſtando* from the Clerke of the Treaſury, which writ he is to deliuer

liuer to the Sheriffe; Whereupon the Sheriffe is to deliuer to him his goods or Cattle againe without Bond.

But it is otherwise where the Defendant doth not bring his Writ *de non molestand.* but intends to ouerthrow all by Errour, for in that case he shall be driuen to enter into Bond for the prooving of the Errour.

In euery case where the cause goeth with the Plaintiffe vpon a *Demurrer*, and the Debt or matter recouered is not expressed, the Iudges of the Court may giue their finall Iudgement, and grant you a Writ to enquire of damages; which Writ shall bee directed and deliuered to the Sheriffe, who by vertue thereof, is to impannell a Iury, who after they be sworne, vpon Euidence to bee produced on the Plaintiffes part, may giue in damages so much as they thinke in their consciences: and as the Witnesses shall proue vpon their Oath that he hath sustained.

Also in an action of waste you are to proceede in like sort, if you certifie the Iudges how the Defendant hath made the place waste, and you doe it before Iudgement is by them giuen.

But the Iury needeth not to haue such great care of the dammages in waste committed, as in other cases of enquirie in that kind: For whatsoeuer the Iurie giues in dammages therein, the Court will, according to the Statute in that case especially prouided, double the same dammages.

And

The Plaintiffes Attourney must bee carefull to looke to the Clerke of the Essoynes, and take heede where the Essoynes doe lye, and whether they be lawfully cast, or no.

And not onely so, but the Attourney for the Plaintiffe or Demandant must farther looke to the Adiourning of the Essoynes, and the casting of the *Ne recipiatur* for the aduantage of his Client.

And the Attourney for the Defendant should also bee as watchfull ouer the casting of the Essoynes; For that oftentimes it proues to bee a benefit to himselfe, and a commodity to his Clyent.

Euery Essoyne must be adiourned in time, with such sufficient continuance as the nature of the action requireth.

For want of Adiournment of the Essoyne, there lyeth a *Non-suit*.

The casting of an Essoyne where it will not lye, may be disallowed, quashed, and turned into a default: But when it is rightly cast, then it is allowed, and then it is to be adiourned.

And you must farther take heed, where the inferiour Tenant may pray in ayde of the Superiour Lord, and when, and in what case a Vowcher lyeth to recouer by force.

If Basterdy bee alledged in generall in any case, the Processe for the tryall thereof is to be directed to the Bishoppe, who is to certifie the same.

The like course is to be held in *Pleas* of Advowson; whether *Plenarty* or not *Plenarty* is to be so tryed, and so certified likewise.

What *Pleas* Attournies may plead, and what not.

To a Bond for payment of money { 1. *Conditions performed:* 2. *Per Minas.* 3. *Per Dures.* 4. *Non est fact.* { *Generall.* *Speciall.*

To the Bill of Debt, plead --- { *Per Minas.* *Per Dures imprison.* *Deins age.* *Non est fact.* { *Generall.* *Speciall.*

To any other Actions of Debt, plead -- { *Nihil debet per Patriam.* *Nil debet per Legem.* *Deins age.* (So it be not for Apparell.

To a Bond for delivery of Corne, &c. plead -- { *Per Dures.* *Per Minas.* *Non est factum.* *Deins age.* *Conditions performed.*

The

The Common issues to *Declarations* grounded vpon *Simple* actions be -- { *Per Legem*: or, *Per Patriam.*

To a Bond performance of Couenants vpon an Indenture or an Arbitriment, may be (pleaded { *Per Minas.* *Per Duress.* *Non est factum*: or, At large.

To an action of Trespasse you may plead -- { *Non Cul.* or, At large: if it be not vpon triall of a Title.

To an action of Batterie, plead -- { *Ex insultu quærentis*: or, *Non Cul.*

To an Action for Rent, plead -- { *Rien in arrere.*

To an action of the Case vpon *Assumpsit*, plead -- { *Non Assumpsit modo & forma.*

To an action for Slander, &c. plead { *Non Cul.* or, *Iustifie the words.*

To an action for detayning of Corne, or any thing which should haue beene deliuered, and for which there is no Obligation, plead ---- { *Non detines.*

Vpon *Eiectment*, -- { *Non Eiecit.* *Non Cul.*

Vpon Accompt, --- *Ne vnques Receivor pour*
le Roy ne deuant vous.

Vpon Administration, --- *Plene Administravit.*

Vpon a Demise, --- *Non demisit.*

All which Pleas before-mentioned are generall,
& ad oppositum.

THe generall issue in an *Assise*, is, *Nul. Disseisin*, --- } *Nul. Disseisin.*

All speciall Pleas heere are pleaded vnder the hand of one of the *Sergeants* at Law.

No Attourney or Clerke of any *Prothonotaries* Office shall make vp any Paper-booke, whereunto any Sergeants hand is, vnlesse he doe first deliuer the same vnto the Defendant to be perused, to whom hee may giue day to bring in the same Booke againe, that it may bee entred in conuenient time; and if the Defendant doe not bring it in accordingly, the Attourney or *Prothonotaries* Clerke, who dealeth therin for the Plaintiffe, may enter a Iudgement thereupon.

The Plaintiffes Attourney shall doe well to request the *Prothonotarie* of the Office to peruse the whole issue drawne into a Paper, before hee carry it to his Sergeant, to the end the *Prothonotarie* may see whether it be well pleaded or no; without

without double matter, or departing from any speciall pleading, and whether it bee truely ioyned, or no, according to the truth of the matter or case; Or else it will bee iopardy and hazzard of the cause: For the Iury are bound not onely to finde out according to the issue ioyned, and no otherwise.

If the Defendants Attourney will suffer the Action to goe against his Clyent by a *Nihil dicit*, Hee must take heede that there bee no part of the debt payd: For if hee doe, his Client is in his Aduerſaries courteſie for the whole debt, wherein the danger is the more if it bee vpon a Bond; For then he is lyable to the penalty and all.

A Title may be tryed vpon an action of *Transgressum*. But that sute doth award no possession, but dammages and costs of sute onely.

But it is otherwise in *Transf.* and *Ejectione firmæ*.

If your goods be remaining in another mans hands, and hee doe not vse them, so that there can bee no conuersion to his owne vse proued; there an action of *Trover* will not lye, but an action of *detinew*.

If you doubt, before you appeare for the Defendant, that you shall bee compelled to plead sooner then you shall be prouided of instructions for the purpose; It is best for you in such extremity to choose the lesser euill, and to suffer an A-

merciament for not appearing.

Or if it may bee had, it were best to imparle, *per licentiam inter loquendi*, ouer vntill the next Terme.

In the continuing of an issue, you for the Plaintiffe must take heed you giue not away your benefit to the Defendant, and hee Summon by *Prouisowt supra*.

If vpon any tryall, at the calling of the Iury, either Attourney shall thinke the Iury to bee fauourable, and not indifferently returned by the Sheriffe, or his Ministers, he that is aggrieued may desire to haue it tryed and examined, And so if cause bee, the pannell shall be quashed, and the *Venire facias* shall bee directed to the *Coroner* of the Shire.

If neede bee, you may except against any of the Iury, for that hee is not a sufficient Freeholder, &c.

And there may bee foure of the Iury, such as you hold to bee most indifferent, chosen by the Iustices of the Bench for Tryers, in case you shall except against the Iury.

And if any of the Iury be excepted against, or Challenged for some speciall combination or matter contriued betweene the Sheriffe and them, or the Sheriffes Ministers and them: That shall not bee tryed by the Iury of the Pannell. but by them that the Iury wil appoint, or by confession of the Sheriffe, or his Ministers.

And such things as shall bee alledged and objected for matter of favour to the one partie or the other, and the challenge shall bee tryed by certaine Tryers of the pannell, (*viz.*) by men that are sworne, and not challenged vpon their Oathes, and the tryall shall bee in this manner following, (*viz.*)

If any principall cause of Challenge shall bee to any of the Iury, it shall not bee made, vntill he be called to be sworne.

Such cause of Challenge may bee, for that hee is a Tenant, a Kinsman, or otherwise tyed to be favourable more to the one party then the other.

Then shall the said Tryers goe together and consider of the matter, and finde whether hee bee a Tenant, or a Kinsman, or so tyed by speciall Bond to the party for whom he is challenged or no.

And the Tryers shall find it either vpon their owne knowledge, or sufficient proofe, and not otherwise.

And the Iury shall not say, that the partie so found is favourable, but that he is a Tenant, or a Kinsman, or so, and the Law shall judge and thinke him favourable.

And so for all other principall challenges.

And so if the whole Iury bee Challenged at the Barre, by the one partie, or the other (as oftentimes they bee) they shall be tryed *figillatim*,

tion, and other Tryers be called forth to try the former ones, in their turne: and so to proceed vntill such time they be all tryed.

The manner how to proceed in the Triall of the issue.

THe Plaintiffes Attourney shall doe well to haue the whole Record, and Rules thereunto belonging in readinesse, with all things pertinent thereunto, which hee must get to bee read and recited vnto the Iurie; And for the ease of the Iurie, the issue whereof they are to enquire, must be truely and plainely deliuered vnto them.

And after this is so read, and deliuered (as aforesaid) the Plaintiffes Attourney may write in a paper the issue, and giue it to the Iury, that they may know what they are to enquire of: prouided, hee giue it to them before they depart from the Barre.

After the Record is read, the Counsaile are to say what they can for their Clyents, seuerally and respectiuely.

Then the Witnesses in the matter are to bee produced, sworne and and examined at the Barre, what they can say to the question in issue.

And

And when the Iury hath heard both parties, and the opinion of the Court (if it neede, for explanation of matter of Law) they are then to depart from the Barre, and the Court appoints and ſweares one of purpoſe, that hee ſhall ſafely keepe the ſaid Iury, ſo that none of them ſhall depart from the other till they bee agreed: and that no other perſon who is not of the ſaid Iury, ſhall in the meane time ſpeake with any of them, nor come among them, vnleſſe it ſhall bee ſuch an one as the Court ſhall appoint to read the Euidences to the Iury, in caſe where none of them can read themſelues.

If the verdict paſſe with you, you are to pray Iudgment, returne your *Poſtea*, to make vp a Bill of the coſts and charges of your Clyent expended in this cauſe, to carry your ſaid Bill to the *Prothonotarie*, in whoſe Office the cauſe is entred, to aſſeſſe your ſaid coſts and expences, which being done, you take out what Execution you pleaſe preſently; Or otherwiſe, vtlaw the Defendant vpon that Iudgement, as you ſhall be aduiſed.

Instructions to sue forth a Recouery.

IN a *Recouery* in a Writ of *Entry* in the *Post*, the Attourney who sueth it forth, must take good aduice in the drawing of his Writ of *Entry*, hee is to carry it to the *Chancery* man to make it.

And the Attourney must take with him, either his Clyent, or some other person who knoweth the Land, and get him sworne before one of the Masters of the *Chancery* for the true value of the Land, and what it is worth by the yeare.

Then must the value be set downe on the back-side of the Writ, and the name of the Master of the *Chancery*, who tooke the Oath thereunto.

Next, this Attourney must carry it to the Kings Attourneys Clerke, who is appoynted for the same purpose to get his Masters hand vnto it.

But before you haue your Writ againe from hence, your Clyent, or some other for him, must enter into a Recognizance to the King in such manner, as Master Attourney Generall his Clerke shall draw vp and make for you, And the said Clerke is to carry your Clyent, or other party, who is so to enter into Recognizance to the Court of *Common-pleas*, to acknowledge the same before the Iudges there.

The

The effect and condition of the ſaid Recognizance is, that thoſe Lands ſpecified in the Writ, are not holden to *Capite*, and that the Recouery is not hurtfull to his Maieſty, nor his ſucceſſors.

And if the Lands bee holden in *Capite*, you muſt take courſe before you ſue out your Writ of *Entry*, for licenſe in that behalfe; otherwiſe you ſhall runne into a great inconuenience, and bee forced afterwards to ſue out your Pardon in this behalfe.

After your Writ of *Entry* is paſſed through the Kings Attourneis hand, then if the Tenants of the Land will appeare in proper perſon, Your Writ of *Entry* with the Returne thereof, muſt bee taken out into one of the *Prothonotaries* Remembrances, where you will haue your Recouery entred.

And then in the Margent of the Remembrance make the appearance of him who is vouched.

And this being done, deliuer your writ to one Serieant, and the Remembrance to another, when the Court is at good and fitting leaſure.

Note withall, that if this bee done with a *ſingle Vowcher*, you are to retaine three Sergeants; and if it bee to bee done with a *Double Vowcher*, you are to retaine fiue Serieants.

And when it is acknowledged, then you are to giue the Writ of *Entry* to the Clerke of the

Office that ſhall enter it, and he will thereupon enter your Recouery, and make you an Exemplification, and a Writ of *Seiſin* in the ſame Terme.

But if the Tenants doe not appeare in proper perſon at the Barre but by Attourney, then you ſhall not get your Writ of Recouery to be fully finiſhed the firſt Terme; but you muſt haue a *Summ.* entred againſt the Tenants, and a Writ of *Seiſin* awarded.

And it behoueth the attourney for the Demandant to be circumſpect, both for the Returne of the Writ of *Entry* and *Seiſin*, and for the filing of them; as alſo for the Warrants of attourney on both ſides, For otherwiſe by default or omiſſion in any of them, the Recouery may bee ouerthrowne againe.

And for farther and more aſſurance in this kind, it hath beene therfore vſed, that they haue exemplified both the Writ of *Entry* and *Seiſin*, with the Returnes thereof, and the Warrants of attourney, for feare leaſt afterwards any of them ſhould be mis-filed or miscarried.

And if you would ſearch for any Recouery acknowledged long before, you muſt firſt find it with the Clerke of the Warrants.

THE

The order to sue forth a Fyne.

First draw the *precipe* in sheetes of Paper, and Engrosse the Concord in Parchment: Then get your writ of Couenant made vp, by the *Cursitor* of the Shire where the Land lyeth, according to Concord.

And if the knowledge bee to bee taken by speciall *Dedimus potestatem*, then you must deliuer to the *Cursitor* the Commissioners names that are to take the Knowledge; Of which Commissioners one must bee a Knight, and the *Cursitor* is to make vp the *Dedimus potestatem* by the Concord, &c.

Then get your Writ sealed, and deliuer it to the Commissioners, with the *Concord* ingrossed in Parchment, with Seales and Waxe vnto it.

And when your Commissioners haue taken the Knowledge, they are to returne the Writ of *Dedimus potestatem* thus, (*viz.*)

Executio istius Commissionis patet in quadam Schedula huic annex.

And file the *Concord* vnto the back side of the *Dedimus potestatem*, and the Commissioners are to set their hands and Seales to the *Concord*, and their hands to the *Dedimus*, *&c.*

You ſhall then proceed with your Writ of Couenant in manner following.

FIrſt, you are to goe to the Office, ſometimes called, My Lord of *Leiceſters* Office in the Inner Temple, becauſe my Lord of *Leiceſter* had the firſt grant thereof: and there to compound for the value of the Land, either by Compoſition, or *affedauit* to bee made before a Doctor who doth attend for the ſame purpoſe.

The Fine being ſet downe by the Officers here, you are to pay it preſently to the Receiuer.

Then wi l the Proper Officers of that Office ſet their hands to the backſide of the Writ.

Then you muſt returne your Writ of Couenant in this manner (*viz.*)

At the vpper end of the Writ,
Pleg. de proſequend.
Ioh, Doo.
Ric. Roo.

In the middle,
Summ:.
Ioh. Den.
Rich. Fen.

At the lower end,
I. M. miles vic. id eſt, the Sheriffes name of the Shire.

Then

THen carry your Writ of Couenant, *Dedimus poteſtatem*, and Records, to the *Cuſtos brevium* his Office, and there deliuer them to the Clerke, who is for the Shire where the Lands doe lye; and hee will take out into Paper what belongs to him to doe, and indorſe the Writ, ſetting downe when the Proclamation ſhall be made.

Then you muſt carry the Writ of Couenant, *Dedimus poteſtatem*, and Concord vnto the Clerk of the Kings ſiluer, where hee will diſpatch what appertaines to his Office, and where, what you muſt pay, and for what, ſhall appeare in the Calender of Fees hereafter in theſe preſents contained.

And then take and carry all to the *Chirographers*, or the *Cirrographers* (as it is corruptly ſtiled) and deliuer it to him who is Clerke of the Shire where the Land lieth, and he will hereupon make the Indentures of Fyne; For which the Fee ſhall appeare hereafter in his place.

Here note, that the *Dedimus poteſtatem* and the Writ of Couenant, muſt agree in Names, Acres, and place.

And if the Knowledge bee taken before one of the Iuſtices of Aſſize in the Country, then the Iudge ſets his hand to the value of the Lands, vpon Oath taken before him, but it is written in Paper.

And when you come to paſſe your Fyne in my

my Lord of *Leiceſters* Office, ſo called (as I ſaid before) becauſe vppon the new erection of it in the dayes of the late good Queene *Elizabeth*, it was conferred vpon him, and was deuiſed & prouided chiefly to take notice of Alienations, being the proiect of one Mr. *Sutton* of *Lincolnes Inne* (as I take it.) Then you muſt borrow that Paper of the Iudge of Aſſize before mencioned, to ſhew it vnto the Officers here; Or elſe you ſhalbe compelled to compound a new for the value of the Lands, &c.

But if the Knowledge be made in open Court, then you muſt haue the *Precipe* in Parchment, which muſt bee annexed to the Writ of Couenant, and you muſt deliuer it vnto the Sergeant at Barre to draw, For which, his Fee ſhall bee ſet downe hereafter: and this you may do before you pay your Fyne, by which Knowledging, you ſaue your Clyent a good part of his charge.

And if it bee Knowledged before my Lord chiefe Iuſtice of the *Common-pleas* in his Chamber, or in any other place ſauing in the Court; then one of his Clerkes will make your *Precipe* & Concord, and write them in Parchment, wherevnto he will get my Lords hand.

And then you are to conſure the Writ of Covenant to the Concord, and to paſſe it through my Lord of *Leiceſters* Office, the *Cuſtos breuium* the *Kings ſiluer*, and the *Chirographer*, as is before ſet downe.

Note

Note also (as I gaue you to vnderstand before in part) that if the Lands bee holden in *Capite* of the King, then you must sue forth your License of *Alienation* for your establing in that behalfe: For if you enter into the Lands without License, the King will haue a Writ of *Intrusion* against you for the same, and so receiue all the maine profits thereof likewise, vntill you haue sued forth your pardon herein, which will be of as much charge, &c.

How your License of Alienation *must be sued out.*

FIrst, you must get him who is proper Clerke for the Licences of *Alienation*, to make your *Dockquet*, or, as it is corruptly written your *Docget*, in Paper, which you are to carry to the Office called my Lord of *Leicesters* Office, or Office for *Alienations*.

At this Office, you must compound for the value of the Land, either by Commission or *Affedauit*, and you must pay the third part of the value sessed, for a Fine, and that presently after the Master of the *Chancery*, or Doctor who attended for that purpose, hath set his hand to the *Dockquet*, the Fee for which hand, expect anon.

This being done, your Writ is to be entred there in the same office.

And then two Clerkes of the Office, to whom it doth appertaine of property, will set their hands to the *Docquet*, and will afterwards make your Licence of *Alienation*, and get it sealed for you, the seuerall Fees of which seuerall passages, I reserue for their proper Station, &c.

Note that the *Post-fine* of euery Fine knowledged, is as much as you pay in the *Chancery*, and halfe as much more, and if it be to be leuied by the Sheriffe of the Shire, where the Land lyeth, which did passe by the Fine after Proclamations which is the yeare after the fine is leuied.

The Causes whereupon wager of Law lyeth.

IF any man be sued vpon a simple Contract.

as,

Vpon Booke:
Vpon *Emisset*, or *Emisit*.
Vpon *Mutuatis* or *Mutauit*.
Vpon *Concessit soluere*, or *Assumpsit soluere*.
Vpon an *In simul Computauerunt*.
Vpon a *Detinet*.
Vpon a *Trouer*.

Vpon

Vpon Debt, being not by Obligation of Bill ſigned and ſealed.

In euery of theſe, the Defendant may wage his Law, that is, hee may diſpoſe that hee oweth the Plaintiffe nothing, and ſo auoyd his ſuite.

Wager of Law is to be done in this wiſe, (*viz.*) that he plead, *Nil debit per legem.*

And ſo hee is to get day ouer vntill the next Terme to doe his Law, Or elſe he may doe his Law preſently at his owne election.

But if he deferre the doing of his Law, vntill another Terme; Hee the Defendant muſt haue a care to come in at his day, and doe his Law.

Or if it ſo happen, that he cannot come in at the time and place appoynted, His Attourney muſt remember the time when his Clyent was to doe his Law, and vpon the ſame day to caſt an *Eſſoyne* for him, or elſe the Plaintiffe will haue Iudgement againſt him by default.

And if the Defendants Attourney doe ſo caſt the *Eſſoyne*, then the Plaintiffes Attourney is to adiourne it, which if he neglect to doe, the Defendants Attourney may call the Plaintiffe *Nonſuite.*

But if the Plaintiffe doth Adiourne it, then the Defendant is to doe his Law peremptorilie at the day giuen him; or elſe Iudgement ſhall be awarded againſt him by his owne default.

And in caſe where the Attourney for the Defendant doth not caſt his *Eſſoyne*, at the day, for

the benefit of this Clyent, and his Clyent is not ready to doe his Law: Then the Attourney for the Plaintiffe may enter a *Ne recipiatur* with the Clerke of the *Essoynes*, and giue him day in Court to doe his Law very speedily, (*viz.*) within three or foure dayes after; and vpon the Defendants default then, The Plaintiffes Attourney may enter a Iudgement against the Defendant.

Then is the Plaintiffes Attourney to make a Bill of his Clyents charges, and get it rated and allowed by the *Prothonotary*, which done, he may make forth Execution against the Defendant, in what sort he shall thinke it best.

When the Defendant commeth into doe his Law, He is to bring some of his neighbours, or acquaintance to depose with him in manner following.

Euery of them must make Oath that he beleeueth, that the Oath which the Defendant taketh and deposeth is true: (Hee the Defendant deposing before him, that hee oweth no such debt to the Plaintiffe, as the Plaintiffe declareth for, nor any part thereof.

And the Defendant should bring with him twelue such neighbours, or acquaintance, compurgators with him, who should all depose in like manner (as aforesaid.)

But there is an Officer here for the case of the subiect, who will furnish the Defendant in this case

case of Wager of Law; with twelue such Compurgatories occasion shall require, for with a lesse number you cannot wage your Law, &c.

When the Defendant hath his said full number of twelue then his Attourney is to get the *Prothonotary* to take his wager of Law.

Then will the Cryer of the Court cause the Defendant to stand vpon the Barre, and the Iustices will examine him, whether he oweth or deteineth the money, or goods, or Chattels, contained in the Declaration, or any part or parcell of the same; whereunto the Defendant is to answer yea or no.

And if the Defendant depoſeth that hee doth not owe or deteine from him the Plaintiffe the same, nor any part or parcell thereof, and the Plaintiffe will stand to his action, then is the Defendant quit thereof for euer, and the Plaintiffe looseth his action.

But if the Plaintiffe will not abide his Oath, intending to charge him otherwise afterwards: The Plaintiffe may bee *Non suit*, pay the Defendant his costs, and bee at liberty to beginne a new againe at another time, and to lay his action so (in some cases) that no wager of Law shall lye therein.

Note farther, that a man may wage his Law in diuerse reall actions:

As,

In Formedowne; or Formedon.

Iodecender, Remainder, or Reuerter.
Waste,
Warrantch.
Donat. or
Any Action where Summons lyeth.

For the Sheriffe returne that hee hath ſummoned, where he hath not ſummoned, whereuppon a *Grand Cape* is awarded; Then, and in ſuch caſe may the Defendant come in and wage his Law that he was not ſummoned, and ſo auoid the *Grand Cap.*

The order to ſue forth a Niſi prius extra.

IF the matter be pleaded to an iſſue, ſo that it is to bee tryed by *Niſi prius* in London, or in the Countrey: Then muſt the Plaintiffes Attourney, after iſſue is ioyned, ſee the ſame well entred and examined by the *Prothonotarie.*

Then carry the Paper booke to the Clerke of the *Niſi prius*; and he or ſome Clerke of his is to tomake vp the Record.

Then let your *Prothonotaries* Clerke make forth your *Venire facias*; which, after it is ſealed, you muſt carry to the Sheriffe of the Shire where the iſſue is ioyned, And cauſe him to returne your Iury.

When you haue your Iury, you are to carry it to

to the Clerke of the Iuries, that hee may thereuppon make your *Hab. Corp.* or *Distringas*, which you are to deliuer to the Sheriffe. Then will he returne it, And make your warrant to warne the Iury, &c.

Then you muſt take your *Hab. Corp.* and the Iuries names being filed to the backſide of the Writ, and *Niſi prius*; And deliuer them all together to the Clerke of the Aſſizes, who if you doe therefore giue him ſomething more then the Ordinary Fees, will call the Iury at ſuch time as you ſhall appoynt him; Or otherwiſe, you may ſtay long enough.

Aboue all things, be ſure that you inſtruct your Councell ſufficiently in ſuch things as make moſt to proone the iſſue on your party.

And haue your witneſſe, or other proofes in a readineſſe.

If you try your matter in *London*, Then the *Poſtea* commeth in on the morrow after the tryall. And Iudgement is giuen preſently vppon the ſame.

But if the tryall bee in the Countrey at the Aſſizes: then the *Poſtea* commeth not till the next Terme following: And then you are to call for your *Poſtea*, and thereupon to ſee that your Iudgement be well entred, &c. (*vt ſupra.*)

Super-

Superſedeas de non Moleſtando.

THis Writ *de non moleſtando*, is to preuent, or free the body or goods of a partie vtlawed from Arreſt: and it is ſued out, to the end the party vtlawed may haue ſecurity and ſafety thereby, in body and goods, in the meane time while he is in reuerſing of the *Vtlary*, whereby to be finally diſcharged of that euill.

If the Plaintiffe haue tooke out Proceſſe of *Vtlary*, and thereby arreſted the Defendants goods or Bodie: This Writ doth diſcharge them both, or either of them; and if the Sheriffe haue not already made ſale of the goods, and before the Returne of the *Cap vt lagat.* vpon the deliuery of this Writ *de non Moleſtand.* hee muſt returne them againe.

And if the Defendant doe bring his ſaid Writ to the Sheriffe, after the returne of the *Cap. Vt lagat.* is paſt, it is then too late, and then the Sheriffe may chooſe whether he will reſtore the goods againe, or return them, or the value of them, which muſt bee appraiſed by men indifferent, for the Kings Maieſties beſt behoofe.

And in caſe after the Sheriffe hath ſo taken the goods by *Cap. Vt lagat.* and vppon bringing of

of the Writ *de non molestand*, shall deliuer back to the Defendant his said goods, he the said Sheriffe is thereupon for his *Indempnity* to take bond of the defendant with sureties, that if he proue not Errour in the matter, the said goods shall not bee made away, but be in readines and forthcomming at all times, and returned, if the Sheriffe shall be compelled to restore and answere them againe.

But if the Defendant sueth forth his Writ *de non molestando*, & haue it in a readines about him before that the Sheriffe doth attach his body or goods vpon the Vtlary, then the Sheriffe vpon sight thereof may not meddle with his body or goods in any wise. And so much shall suffice for the Writ *de non molestando*, &c.

Note, that all Actions of the *Case*, *Debt*, or *Battery* may be laid in what County you please, But *Trans. Ejectment* and *Waste* be locall.

The Charge of proceeding in every ſeuerall Cuſe, and vpon euery ſeuerall Proceſſe now followeth.

The Charge of the Originall Writ.

FIrſt, for euery Originall Writ of the *Common-Plea*, being a ſingle Writ.

		l.	s.	d.
In *Debt*, *Trans.* &c.	*Per piece.*		1	4
Inde Poſt diem,				4
Item, for the double Originall Writ of thoſe kindes,			1	6
Item, *Poſt diem*,				4

Item, for a Fine vpon euery Originall Writ, as followeth, *viz.*

If the Originall exceed Forty pounds, it payeth to the *Curſitor.*			6	8
If the Originall bee a hundred pounds, it payes Fine,		10		0
And ſo from aboue forty pound in *infinitum*, the like proportionable Fine.	*With the firſt proportionably.*			

Item,

	l.	s.	d.
Item, for all Originall Writs, beside the ordinary ones of *Debt, trans. insult.* and the other twelue penny writs, you shal pay Fee for making of them, as before is set down in the *Chancery*.	Vide the *charge of Originall Writs in Chancery*.		
Item, the Common *Proces* vpon the originall of *Debt, trans.* &c.	0	0	6
Item, the Seale of the common *Processe*.	0	0	7
Item, the Common *Processe*, vpon an Action of the *Case*, and other actions of higher nature being most of them Reall, and not within the number of those which pay but twelue pence for the Originall.	0	2	0
Item, the Seale.	0	0	7

The ordinary charge to sue an Vtlary *in a single Writ.*

IN *primis*, The Originall and *Post diem.*	0	1	4
Item, the *Capias* and *Seale*,	0	1	5
Item, post diem.	0	0	4
Item, the *Alias Capias*, and *Seale*, with the *Post diem.*	0	1	5

	l.	s.	d
Item, the Attourneyes Fee	0	2	4
Item, the *Plur. Cap.* and *Seale*	0	1	0
Item, the Warrant of Attourny	0	0	4
Item, the exigent and Seale	0	0	6
Item, the Proclamation & Seale	0	1	0
Item, the returne of the *Exigent* for every name	0	1	0
Item, for fyling the *Exigent* and *Proclamation*	0	0	8
Item, if it be with a *Post terminum*, the fyling of the *Exigent* will cost	0	1	6
Item, the Attourneyes Fee	0	2	4
Item, a generall *Cap. vtlagat.* and the Seale thereof	0	11	0
Item, a speciall *Cap. vtlagat.* and the seale thereof	0	7	0
Item, the Attourneyes Fee	0	2	4

The Charges of a Nisi Prius in Guild-Hall *in* London, *taken by default.*

	l.	s.	d
IN primis, The *Kanirs facias*	0	2	7
Item, the Returne thereof	0	0	0
Item, the *Post Diem* of the same	0	0	4
Item, the *Hab. Corp.* and the Seale	0	1	0
Item, the Returne of it	0	2	4

Item,

	l.	s.	d.
Item, the Sergeant for warning the Iurie.			4
For the Copie of the issue.		1	0
For the Seale of the *Nisi Prius*.		2	2
The Lord chiefe Iustices Fee for entring the Record into his Booke.		11	9
For the reading of the Record.		1	0
For the Default.			4
For the Greene Cloth.		1	0
For the Keeper of the Hall.		1	0
For a *Tales* if the Iury fall not.			4
To the Iury *per* piece, being of the number in the *Hab. Corp.*			8
To the rest that come by *Tales per piece*.			4
Item, my Lords Foote-man.			8
Item, to the Sergeant for keeping of the Iury.		1	0
Item, for the Barre-keeper.		1	0
Item, to the Cryer.		1	0
For every witnesse sworne *per* piece.			4
Item, the Attourneyes Fee.		3	4
Item, for your Councels fee.		10	0

The charges of a Nisi Prius in the Country.

	l.	s.	d.
IN primis, the *Ven. fac.*		0	2
The returne thereof.			*vt supra.*
The *Post Diem.*			*vt supra.*
The *Habeas Corpora* and Seale,			*vt supra.*
The returne of it,			*vt supra.*
The Bayliffes for warning the Iury,			*vt supra.*
For sealing the Record of *Nisi prius*,			*vt supra.*
The putting in the Record at Assizes.		0	1
Item, your Counsellers Fee,			*vt supra.*
The Attourneyes Fee,			*vt supra.*
Where note, that if the Attourney, who is named Attourney vpon the Record, followeth the businesse, you shall save 4. shillings foure pence. But if you vse any other, you shall pay the more.		0	4
Item, All other things, as Iury, The Bayliffe who keepes the Iury, Cryer, and all other generall and for the most part.		0	*vt supra.*

Fees

Fees belonging to the Prothonotaries, and their Clerkes.

In primis, for euery common Declaration, not exceeding the number of twenty lines in the Roll, And the Roll vnder the number of 700.	0 — 1 — 0
Where the Originall and *Pleas* are double, the Fees generally vpon the same proceeding, be likewise double here,	*Duplex fee.*
Declaration vpon Account,	0 — 2 — 0
Entring of an Issue vpon a *per dures imprisonment, nunques Executor, or plene Administrauit,*	0 — 2 — 4
Also for the Declaration, and for the Iudgement, *similiter.*	*similiter.*
Nunques Receptor pour accounts rendre pro Q. & Defen.	0 — 4 — 2
Fee of the Defendant for euery common Issue,	0 — 1 — 0
Fee of the Plaintiffe for Conditions performed, wherein there is no Reioynder,	0 — 3 — 8
Of the Defendant for his part except the Bond bee the longer but	0 — 2 — 0

Item,

Item, for every Declaration, if it be but twenty lines. 0 — 1 — 4

Item, for every sheete more, if it be aboue twenty lines. 0 — 0 — 4

To the Clerke for copying of the Pleas, and tuning for euery sheete. 0 — 0 — 4 *for euerie sheete inde.*

The *Imparlance Cop.* 0

To the *Prothonotary* for euery *Imparlance.* 0 — 0 — 4

For the entring of the Condition. 0 — 1 — 0

In Reall actions, for the Copy of euery sheete. 0 — 0 — 4 *de sheete*

Entring of *Non assumpsit* for the Defendant. 0 — 0 — 4

For the Plaintife, *semblter* 0 — 0 — 2

For euery Replication 0 — 0 — 4

For euery Reioynder 0 — 0 — 8

For entring of euery Bayle 0 — 0 — 8

For entring of *Nihil dicit* 0 — 0 — 8

For the Copy of the same 0 — 0 — 8

If the same containe more then a Roll: Then you pay after the Rate of 6. s. 8. d. for euery Roll more. 0 — 6 — 8 *Euery Roll more.*

For euery Iudgment and Satisfaction in Actions Reall. 0 — 4 — 0

To the *Prothonotary* for Single *Fonther.* 0 — 11 — 6

To

	l.	s.	d.
To the Clerke for entring and Exemplifying, *inde.*	0	4	0
The *Prothonotaries* allowance to the Clerke, *inde,*	0	1	6
For writing and examining of euery exemplification in Writs of entry vpon *Voucher*, or confession, if it be a double *Voucher.*	0	5	0
To the *Prothonotary,*	0	14	6
The *Prothonotarie* allowes to the Clerke, *inde,*	0	2	6
To the Clerke for entring of euery Roll,	0	0	4
To the *Prothonotarie* for entring the Summons.	0	4	6
For the searching of any of the old *Docquets* for euery Terme.	0	0	4
To the *Prothonotary* for a Treble *Voucher.*	0	18	6
To the Clerke for entring and exemplifying, *inde,*	0	6	0

Fees belonging to the Philosers of the Common-Pleas.

	l.	s.	d.
IN primis, for euery *Cap.* vpon *Distresse*, and in Debt, Detinew, Accompt, and Trespasse, of Common Processe.	0	0	6
For the signing thereof	0	0	4
Item, for euery *Capias pone*, or *Capias* and *Distresse* in the common Writ of the said Action.	0	0	6
For signing thereof.	0	0	4
Item, if any such Writ be of the number of sixe names.	0	1	0
Item, for *Capias Pone*, & *Distresse* Sur. Couenant, Annuity, of Action, vpon the Statute, &c. Besides the Seale.	0	1	6
Item, for euery *Exigent* vpon the Statute, and vppon the Case.	0	0	1
Item, for the deliuery of a Record.	0	0	4
Item, if any the aforesaid Writs bee longer then is usuall, by reason of the number of names, or matter conteyned in them. Then you are to pay therefore accordingly, and ratably.	*Ratably.*		

Item,

Fees of the Office of Custos Brevium.

	l.	s.	d.
Inprimis, for search of euery Terme.	0	0	5
Item, for the Copy of the Writ.	0	0	4
Item, for the single bundle.	0	0	1
Item, for the fyling of an *Exigent*, if it be without a *Post terminum*.	0	1	8
Item, for the fyling of any Sheriffes bundle of Writs, so that they come in within three or foure daies after the first returne of the Terme.	0	0	4

Note, that by reason of the manifold inconueniences, and abuses which did grow by occasion of the putting in, and receiuing of Writs here after the day, It was ordered and directed by the Court, that no *Originall* Writ, or *Plur. Cap.* shall be put in, or receiued the last day of the Returne, *inde*.

Item, the Bagge-bearer of the *Custos brevium*, ought to bring in the bundles of Writs of the Terme past, on the first day of the Terme following, to be seene, perused and vsed by such as haue authority to doe it, and that without paying of any thing for the same.

Duties and Fees belonging to the Treasurie-house.

	l.	s.	d.
IN primis, for a Search, when you bring with you the Terme, and Number Roll, And if it be in the Terme time, or before the Doore is shut vp		0	4 every search.
And if you come to search in the Vocation, after the Doore is shut vp, then you pay to the Keeper of the same house for opening the Doore.		2	0
And if you search any of the old Termes, Then you must pay for euery of the said Termes which you do so search		0	4
Item, the Officers and Attourneys ought to search and see the *Essoines* Rolles and old Termes in the Treasury, for their better Information and direction in their owne businesse, without paying any Fee at all.			*No Fee, in Priuiledge.*
Item, for a *Supersedeas*, vpon *Maine Prise*, which should be taken (the Defendant being present in person.)		2	0

Item,

	l.	s.	d.
Item, a Bill of Baile thereupon,	0		4
Item, for writing examination, and certifying *inde*,	0	4	4
Item, for Fees of Reu. of Pardon vpon an Vtlary,	0	6	8
For the certifying of the Record *inde*,	0	2	1
Item, for the Warden of the Fleete *inde*,	0	2	8
Item, for the Clerkes paines	0	1	8
Item, for the *Scire facias inde*	0	0	6
Item, for the Bill of Baile	0	0	4
Item, for euery *Nisi prius*, so that it exceed not three sheets.	0	2	0
For euery sheete aboue three,	0	0	4
For the Seale,		0	*vt supra.*

Fees of the Clerke of the Essoynes *follow.*

	l.	s.	d.
In primis, for Enrolling of euery *Essoyne*,	0	0	6
For euery *Idem dies*	0	0	4
For euery Adiournment,	0	0	4
For euery Bill of Exception,	0	0	6
For euery *Ne Recipiatur*.	0	0	6

	l.	s.	d.
For euery *Superſedeas* made by the Clerke of the Treaſury,			4
For euery Copy thereof			8
If any Rolle be ſpoiled by any of the *Prothonotaries* Clerke, or any other Clerke that doth enter any Roles, then the party that ſo ſpoyleth them, may goe to the Office, & get a new one, paying for the ſame.			*a Rolle.*
Item, of the Lordchiefe Iuſtice for making and binding of euery Terme, for his Fee, *ſcdt.*			8

The Cryers Fees.

	l.	s.	d.
IN primis, for euery verdict, or *Non ſuite* in the Court,			4
For euery Fine knowledged at the Barre.			8
For calling, keeping, and ſwearing of the Iury.			4
For euery wager of Law,			8
For euery recouery at the Barre.			12
Item, he ought to haue of euery Attourney of the ſame Court at the end of euery Terme, which he well deſerueth,			4 *of euery Attourney.*

The

The charge of the reuersing of an Vtlary followeth.

	l.	s.	d.
IN primis, to the *Exigenter* for the Terme and number Roll,	0	1	4
For a Warrant to enter the Attourney:		1	4
For entring of the *Vtlary*		6	8
To the Clerkes that enters it for his paines	0	1	6
For the Pardon	2	0	0
For the *Supersedeas*	0	3	0
For the *Scire facias*, and the Returne, *inde*,	0	2	4
The Attourneyes Fee.		3	4
Summe,	3	0	2

Fees belonging to the Clerke of the Vtlaries follow.

	l.	s.	d.
IN primis, for search of euery Terme.	0	0	4
Item, a generall *Capias Vtlagat*,	0	6	10
Item, for a speciall *Capias Vtlagatum*,	0	2	4

Item,

	l.	s.	d.
Item the *Certiorare* vpon at *Vtl.*	o	2	o
For a Copy and fine.			10

And for your direction Note, that if you would cause an *Vtlary* to be certified, which is in the Sheriffes hand: For that the parties are agreed, you must first get a true Copie of the *Exigent*, which you must bring to the Clerke of the *Vtlaries*, and request him to make you a *Certiorare* thereby directed vnto the Sheriffe of the Shire, where the Defendant is vtlawed. This you are to deliver vnto the Sheriffe, and hee thereupon must certifie and returne it ouer of force, though the Plaintiffe doe not withdraw the *Exigent*.

The charges of trauersing of an Vtlary, *and Pardon vpon the same, whereupon you are to proceed in this and other Courts accommodately.*

	l.	s.	d.
Inprimis, the Search of the number Roll.	o	o	4
Item, the *Certiorare* out of the *Chancery* to remoue Record.	o	2	6

Item,

	l.	s.	d.
Item, the Clerke of the Treasury of this Court, for removing of the Record.	0	14	1
Item, for drawing of the Pardon,	0	3	4
Item, for engrossing of the Pardon,	0	6	8
Item, for examining of it,	0	1	0
Item, for enrolling of it in the *Chantery*.	0	3	4
Item, for the great Seale.	1	0	6
Item, for the first *Scire fac.*	0	2	6
Item, the returne thereof.	0	2	0
Item, for entring of the *Vslary*.	0	0	8
Item, to one of the *Prothonotaries* for allowance of the pardon.	0	3	4
Item, the *Post Diem* of the first *Scirifacias*.	0	0	4
Item, the Copy of the Entry.	0	1	0
Item, to the Clerke of the *Vslaries* for discharging the same.	0	3	0
Item, the *Supersedeas de non molestando*.	0	2	6
Item, the Attourneyes Fee,	0	3	4
Summe,	3	6	4

The charges of a Recouerie at the Barre.

	l.	s.	d.
IN primis, the VVrit of Entry,	0	2	6
For entring of the VVrit of Entry in the alienation Office.	0	0	4
To the Doctor or him that doth attend for the composition.	0	0	4
For indorsing of the VVrit.	0	0	6
For sy ling of the same,	0	1	0
For fine thereof, according to the value made by deposition of the party.	*As in the Table following hereafter.*		
To the Receiuer.	0	0	6
For the Returne thereof.	0	2	0
To Master Attourney Generall for signing of the VVrit.	0	10	0
To the Secondary for making the remembrance.	0	2	0
For a single *Vouchee* for three Sergeants.	0	10	0
For a double *Vouchee* to foure Sergeants.	0	13	4

If there be not so many Sergeants at the Barre, at the time of the knowledging of the recouery, whether with single or double *Vouscher*, as there ought to be, The *ouer plus* of the Sergeants due is to be deliuered to the Puisne one ——— *To the Puisne his surplusage*

	l.	s.	d.
Iustice to the Poores Box. —	0	0	6
Pro Iustic. Iunioribus, —	0	2	6
The Common *Vouscher*. —	0	0	4
To the Cryer. —	0	1	0
To the Keeper. —	0	0	6
To the *Prothonotarie* for entring a single *Vouscher*. —	0	14	6
To the Clerke for exemplifying of the same. —	0	15	0
For the Seale of the Recouery in greene Wax. —	0	2	8
The Writ of *Seisin* and Seale.	0	1	3
The Returne of the *Post Diem* thereof. —	0	3	0
The Warrant of Attourney.	0	0	8
The Attourneyes Fee, —	0	3	4

And if there be a Writ of Summons awarded, for that the Recouery cannot bee perfected in one Terme, the Attourney may demand another Fee, very reasonably and justificably. ——— Double *Fee, pro Attornato.*

For taking of *Affidavit, pro valore terr.* 0 — 0 — 4

For the Writ of Summons. 0 — 2 — 4

For the Returne and *Post diem.* 0 — 2 — 0

Summe tot all, beſides the Fines, 3 — 6 — 8

The Fines follow *Secundum ratum & Conſuetudinem.*

Value of

Land, l.	s.	d.	*Payeth.* l.	s.	d.	*Rate,* l.	s.	d.
3	6	8				0	6	8
5	6	8				0	10	0
7	13	4				0	13	0
8	13	4				0	16	8
10	0	0				1	0	0
12	0	0				1	3	4
14	6	0				1	6	8
15	6	8				1	10	0
17	13	4				1	13	4
18	13	4				1	16	8
20	0	0				2	0	0
22	0	0				2	3	4
24	6	8				2	6	8

The Land of yearely value of

And ſo proportionably, according to the ſayd Rates.

The charges of a Fine, with license of Alienation followeth.

	l.	s.	d.
Inprimis, for making of the *Deckquet*,	0	1	0
For signing of the *Deckquet*.	0	2	0
For entring the Fine,	0	0	6

Note that

The Fine for Alienation, is the third part of yearely profits of the Lands set downe by the Officers in the *Deckquet*. — *Fine third part Valoris terr.*

For making the License, and for sealing of it,	2	0	0
For entring of the Compotition.	0	0	6
For Writ of Couenant.	0	2	6

The Fine in the Writ of Covenant, is the tenth part of the Value, as is set downe by the Officers. — *Fine brt. Couenant tenth part valoris terr.*

To the *Custos brevium*.	0	2	8
For entring of the Kings silver.	0	0	6
To the *Chirographer*.	0	3	8
To the allowance of the Proclamation,	0	1	0

	l.	s.	d.
For engrossing of the Fine, and expedition.	0	1	6
For the Attourneyes Fee,	0	6	8
Summe Total, besides Fines.	3	4	4

The charges of a Fine knowledged by speciall Dedimus Potestatem.

	l.	s.	d.
IN primis, the Writ of *Dedimus potestatem*,	1	3	1
The Fine of the Hannaper.	0	6	8
The Lord chiefe Iustice his hand to the *Dedimus potestatem.*	0	1	0
To the Master of the Rolls, for his hand to the same,	0	1	0
The Returne of the *Dedimus potestatem*,	0	2	0
The Attourneyes Fee.	0	3	4
For drawing of the Concord,	0	3	4
The VVrit of Couenant,	0	2	6
The *post Diem inde*,	0	0	4
The Returne thereof,	0	2	0
Item, one of the *Custos Brevium* his Clerkes, which taketh out the Fine,	0	1	0

The

	l.	s.	d.
The fine is according to the Value (*id est*) the tenth part of the value,	0	10. *pars.*	
For the Commission or *Affedanit.*	0	0	4
For the Kings Siluer.	0	10	4
The entring of the VVrit of Couenant,	0	0	6
The *Custos Breuium*,	0	2	8
To the *Chirographer*,	0	5	6
If you bring your VVrit of Couenant after the Terme is ended, The allowance of the Proclamation will cost you,	0	1	0
For engrossing of the Fine.	0	1	0
For expedition,	0	6	6
Attourneys Fee,	0	3	4
Summe Total, besides Fine to the King.	2	1	10

And so much shall suffice for the charge of a Fine so acknowledged: Now followeth.

The Charges of a Fine knowledged before my Lord chiefe Iustice of the Common-pleas.

IN *primis*, for drawing of the Concord,	0	2	6

The

	l.	s.	d.
The Writ of Couenant,	0	2	6
The Knowledging before his Lordship.	0	9	0
The Fine for the Value.	*Vt supra.*		
For the *Affedauit* and composition.	0	0	4
For entring the Writ of Couenant.	*Vt supra.*		
To the Receiuer, for making of the VVrit, and knowledging of the same.	0	0	6
The Returne of the VVrit of Couenant.	0	2	0
The *Post Diem inde*,	0	0	4
To my Lord chiefe Iustices man for getting of his Lords hand to the concord.	0	1	0
To the *Custos brevium*,	0	2	8
For engrossing of the Fine.	0	1	0
For expedition,	0	0	6
Attourneys Fee,	0	3	4
Summe Total, besides Fine to the King.	1	13	4

The

The Charge of knowledging a Fine at the Barre.

	l.	s.	d.
FOr engrossing of the *Concord*,	0	3	6
Bre de Conenant:	0	2	6
Affedauit	0	0	4
Allocatio Bre de Conenant.	0	0	6
To the Receiuer	0	0	6
To the Sergeant at Barre.	0	3	4
To the *Prothonotaries* Clerke for making the Knowledge,	0	0	6
To the Boxe,	0	0	6
To the Porter,	0	0	6
Fine to the King,	*vt supra.*		
Returne of the Writ of Conenant,	0	2	0
Custos Breuium.	0	2	0
Entring of the Kings Siluer.	0	0	6
To the *Chirographer:*	0	5	8
Engrossing of the Fine & expeditiõ,	0	1	6
Summe Totall, besides the Kings Fine.	1	3	6

ALl Writs of Conenant, Writs of Assize, and Writs in nature of Assize aboue the value of forty shillings, pay Fine, ——— *as before is set downe.*

Writs of Debt and Writs of *Transf.* *Aboue* 40. l. *pay Fine as followeth,* (viz.)

Aboue 40.l. vnto 100.l. payes 0.l. 6.s. 8.d.

l.	s.	d.		l.	s.	d.
100	0		payes	0	10	0
133	6	8		0	13	4
146	6	4		0	16	8
200	0	0		1	0	0
233	6	0		1	3	4
340	13	4		1	6	8
300	0	0		1	10	0

Et sic progreditur in infinitum.

WRits of Forme-downe aboue the value of foure pounds, pay Fine in forme following.

l.	s.	d.		l.	s.	d.
5.	6	8	payes	0	6	8
6.	6	8		0	10	0
10	13	4		0	13	4
11	13	0		0	16	8
16	0	0		1	0	0
17	0	0		1	3	4
18	0	0	}			
19	0	0	}	*Ratably.*		
20	0	0	}			
20	0	0		*Similiter.*		
22	6	8		1	10	0

Et sic de ceteris de proportionabilter, procedendum est.

All

All Writs of
Pone of *Iuſtice.*
Pone of *Writs of Right.*
Pone de auerijs bonis & Catallis.
De Conſpiratione,
Falſo Iudicio,
Recordare of all kindes except *de auerijs &c.*
Accedas ad Curiam,
Dedimus Poteſtatem for knowledge of a Fine, or Deed to be enrolled or cancelled.

	l.	s.	d.
Euery one of theſe Writs doe pay Fine,	1	6	8

I Doe confeſſe that I haue here omitted the preciſe order of ſetting downe the proceedings of the *Common-pleas*, in the way of gradation and true footmanſhip in the ſcale of method numerouſly; as alſo in the deliuery of the Fees of this court.

I doe acknowledge, that more might haue bin added, and ſome of theſe may be ſubiect to the quarell of thoſe who deſire to keepe their Lawmyſterie in *Emblemes* and *Characters*, like to conſcionable *Caldeans*; rather then to communicate them with the publike in a knowne way of dealing, and a familiar language of Commerce: For anſwer hereunto, I referre me to the preface in the frontiſpice hereof.

Deſiring onely ſuch as affect generall good, to teſtifie their generous and ingenerate goodneſſe in the aſſiſtance hereof.

Thus the Author prayes in ayde of your *Common-pleas* men eſpecially, and as duty more bindeth him, of that moſt worthy, to be ſo moſt eminent a *Prothonotarie* among you, Mr. *Brounelowe*, with this Concluſion:

You that are Maſters of this Science,
I aske your ayde and free ſupplyance.

Cætera turba tuas muſcas venare, miniſtro:
Fulminis hæc valido, propria præda: Vale.

THE

THE KINGS BENCH.

THe *Kings Bench* consists of the *Prothonotarie* side, and the Crowne Office side, &c.

On the *Prothonotaries* side are (as I deliuered in my *Search* of Record.)

Onely

Personall Actions, and some mixt Actions: besides such matters as the King is partie.

FOR their proceeding in personall and mixt Actions, it is generally the like as that of the *Common-pleas*, and therefore shall not require a second recitall: So are their Fees

generally alike: For hee that is a ſufficient *Common-pleas* man, is able to the practice of any other Court of Common-Law whatſoeuer.

And therefore I ſhall onely ſhew you in what poynt of proceeding they doe differ, and how eaſily thoſe differences are and may be reconciled withall.

The *Kings Bench* vſeth onely a *Latitat* for their Leading Proceſſe.

To this, the firſt Leading *Capias* of the *Common-pleas* does anſwere.

For as the *Capias* hath an originall Writ to goe before it? So the *Latitat* ſuppoſeth and pretendeth a Bill of *Middleſex* to leade it alſo, For that is granted in the *Kings Bench*, becauſe it is intended that the Defendant vpon returne of a Bill of *Middleſex* precedent doth *Latitare in vallinatur*, &c.

Onely the *Latitat* is like to Doctor *Giffords* water, which ſerues for all diſeaſes, and ſo it holds one forme in all caſes and actions whatſoeuer, and charges the Defendant onely *De pl. Tranſ.* be it for debt or other cauſe, &c.

But the Originall muſt containe the true cauſe of action, and ſo be exactly ſet down and drawne, that all the following Proceſſe and proceeding, may be tyed to agree with it *punctuatim*.

The *Kings Bench* man payes Fine to the King, in Debt and the like actions aboue —— 40. l.

So doth the *Common-pleas* man too.

But

But the *Kings Bench* man hee payes but halfe ſo much as the *Common-Pleas* man doth; and the *Common-Pleas man* is the better pay-maſter too. For he payes at the firſt entrance into ſuite, and vpon the Originall, whereas the other payeth not till he declareth, which in many caſes neuer is done at all.

In the *Kings Bench* the Plaintiffe hath longer time to declare then is allowed in the *Common-Pleas*. And where the Defendant appeareth vpon ordinary Bayle, whoſoeuer will, may come in and Declare againſt him, which is not vſed in the *Common-pleas*.

In the *Kings Bench* you ſhall not needeto put in ſpecial Baile, vnles it be for debt vpon Specialty.

So it is likewiſe in the *Common-pleas*.

But the *Common-pleas* enioynes ſpeciall Bayle for 10.l. and the other not vnder 20.l.

In the *Kings Bench* the Attourney for the Defendant may mend or alter his Plea after it is deliuered ouer.

So may the *Common-pleas* man too.

But the *Common-pleas* man muſt doe it within the ſame Terme, whereas the *Kings Bench* man hath a longer time, for that hee is not tyed to enter by parcell, and ſo ſoone as the *Common-pleas* man is, but to doe it altogether, and at much more leiſure.

For the charge of remouing the body of any Priſoner, by *Habeas Corpus* in the one, or by

Oſtenſum

Oſtenſum eſt in the other, though there bee ſome difference in the firſt rile, and here & there afterwards in the proceeding of the Remoaue, putting in Bayle, and fyling of it, yet if we conferre their Bills of Coſts together, in the concluſion wee ſhall find a very little difference in the whole.

Both pay dammage cleare, that is poundage vpon euery twenty ſhillings in a Iudgement: But the *Kings Bench* payes onely twelve pence the pound, and the other payeth two ſhillings.

There be ſome other few differences in the formality, but none in the ſubſtance of their myſteries. And thus I leaue the *Prothonotarie* ſide.

For the Crowne office ſide: It pleaſed ſome to make an eſpeciall ſuite to exclude my pen from medling in their Myſtery in my former Worke: And therefore (as I then ſaid) ſo I muſt now reſolue, that I doe aduiſedly pretermit it, and giue it backe to their owne care, who are better able to performe this generall good at their pleaſure, when it ſhall pleaſe them to intend to publique. And now I bend my iourney homeward, and to my native Birth-bed: *London*.

LONDON.

LONDON

THEIR COVRTS OF COMMON LAW; (viz.)

First, the Lord Mayors Court:
2. *The Sheriffes Courts.*

THey doe all deale in Actions personall for the most part, except on the Lord Mayors side sometimes a Reall action fal's in by chance, for matter or demand of something lying within the Citie.

Their proceeding generally is, *ad extremum* of the *Kings-Bench*, onely differing in such cases, as where their Customes carry their predomination.

The Defendant if hee bee a Freeman, hath foure defaults, (that is) foure the next Court dayes of the place where the Action lyeth, to put

in Bayle to the cause: But the Forreyner hath no such priuiledge.

The Plaintiffe hath a day ouer to declare, vnlesse it be so that the Defendant is a Prisoner lying in durance vpon the same suite; For in such case the Plaintiffe must declare vppon the very next Court day following the Arrest.

And the Defendant is brought by Writ out of the Prison to the Barre, to plead vnto the said Declaration.

There is one maine difference betweene the Proceeding here, and that aboue at *Westminster*, which is in the most familiar and ordinary action of the Citie, *(viz.)* their *indebitatus assumpsit*, And that is, that they deny wager of Law here, vpon it: which (howsoeuer it be countenanced, and glossed by the Custome) I am sure it takes away the inheritance of a free-borne Subiect by the Law.

The like opinion I haue of an Attachment made of goods in *propriis manibus* of the owner.

The proceeding heere generally in all cases, where they lay by their Customes are to the president of the Common Law at *Westminster*.

Onely they haue one helpe besides; Errour, and *Erronicè emanit*, after Verdict heere, which is to marke the cause before my Lord *Mayor*; where how farre that *Superintendency* may ouerrule, I know not.

The

The charge of the proceeding in the Sheriffes Courts in any ordinary Action, where the Iudgement is had by default, is about — 0 — 16 — 0

Where the Iudgement is had by Verdict of Iury, about — 0 — 6 — 8

For a *Non suit*, in case where the Plaintiffe doth not declare, about — 0 — 8 — 0

For the Customes of the City, I referre you to read

Duntherne
and
Liber albus.

Both which treat vpon the same Subiect, and are kept in their common Treasurie at *Guild Hall*, in *London*, as I declared in my last of Direction for Search, &c.

And so much may suffice for *London*, in auoidance of Repetition of the same matter ouer againe, for feare of abusing of your patience, or accusing of mine owne memory, &c.

All other Court of Records in all *Cities, and great Townes.*

Incorporate.

THey all are led to the example of the *Common Pleas*, and *Kings-Bench* generally; And their proceeding (as vnto the formalitie) is alike for the most part; And therefore my excuse is gone before me, for that I do dwell no longer vpon them, but carry my eye higher, which is into.

THE

THE STARRE-CHAMBER.

The Practice of proceeding heere.

FIrſt, it is to be vnderſtood, that in caſe betweene party and party Subiects heere, the Leading Proceſſe is onely a *Sub pœna ad ſummonendum* againſt the Defendant.

And the Defendant hath foure dayes after the Returne of the *Sub pœna* to make his appearance, which he muſt carefully enter.

	l.	s.	d.
And for entring his appearance, he is to pay.	0	2	0
Beſides the Attourneyes Fee, which ſerues alſo for the whole Terme,	0	3	4

If he appeare after the foure dayes, and the attachment bee awarded against him, he then payeth onely for the *Post Diem*.

After the time limited for the Defendants Appearance is past, upon the Defendants default, and Oath made of the seruing of the *Subpæna* the Plaintiffe may haue an Attachment against the Defendants.

	l.	s.	d.
He shall pay pay Fee for the Oath.	0	2	6
For the Warrant for the Attachment.	0	2	4
Also for the Writ and Seale,	0	2	6

If his Returne bee at a day certaine, hee hath that day, and the next day after to appeare.

But if vpon a generall Returne, hee hath foure dayes after (as aforesayd) wherein it appeareth likewise, that this Court followeth the practice of the high Court of *Chancerie*.

If the Attachment goe forth, and the Defendant bee taken thereupon, and commeth in then to make his appearance: hee must enter into Bond to answere the Contempt.

Fee *inde*, —— 0, l. — 2. s. — 0. d.

If a Bill bee exhibited, the party against whom it is, may, (hauing notice thereof) if he will appeare gratis vnto it, and make answere without Processe.

If vpon the Attachment made out against the Defen-

Defendant for not appearing, the Sheriffe returne *Nihil feci*, the Plaintiffe may haue an *Alias Attach.*

	l.	s.	d.
For the Warrant *inde.*	0	3	4
Writ and Seale,	0	2	6

If the Sheriffe returne *Non est inuentus*, vppon the Attachment, the Plaintiffe may haue at *Attach* with Proclamation, wherein this Court still pursues the practice of the *Chancerie*, &c.

	l.	s.	d.
Fee for Warrant *inde*,	0	3	4
Writ.	2	2	6

And if the Defendant doe not appeare vpon the Proclamation, the Plaintiffe is to call for the Returne thereof, which the Sheriffe will returne *Proclamari feci*, and thereupon the Plaintiffe may sue forth a *Cõmission* of *Rebellion*, directed to fiue such Cõmissioners as himselfe shall please to name, for the apprehension of the Defendant, &c.

	l.	s.	d.
Fee for the Warrant *inde*,	0	3	4
Writ and the Seale.	0	13	0

If the Defendant appeare vpon any of the Attachments, the Plaintiffe may haue him committed to the Fleete for his Contempt; vpon order herein.

	l.	s.	d.
For entry and Copy of the Order *inde*,	0	3	0

Where

Where note, that it is no contempt, vntill such time the Counsaile shall iudge and order it to be a Contempt.

If the Defendant, after he had appeared vpon Attachment, doe part without answering of the Contempt; his Bond may bee estrated into the *Exchequer*, and order may be for his Commitment likewise, notwithstanding the aduantage to be taken of the Bond.

The Plaintiffe must, before he hath any Warrant for the Processe here put into the Court a perfect Bill, or else a Bill *pro forma*.

If the Plaintiffe doe exhibite a Bill *pro forma*, So much time as the Defendant hath after the Returne of the *Subpana* to make his appearance, euen so much time hath the Plaintiffe to make his Bill perfect.

If the Plaintiffes bill be not put into the Court in due time, the Defendant may get him to bee dismissed with Costs.

	l.	s.	d.
Fee for euery twenty shillings assessed for Costs to the Clerke of the Court *inde*. —	0	2	0 *vpon the pound.*
For the Warrant to lead the Writ whereby to demand it. —	l. 0	s. 2	d. 6
For the Writ and Seale,	0	2	6

If vpon seruing of the said Writ for Costs and *Affidavit* made on that behalfe, the costs bee not payd by the Plaintiffe, the Defendant may

may haue an Attachment againſt him.

The Fee of which Attachment, —*vt ſupra.*

The Defendant hath eight dayes after his appearance entred, to put in his anſwere, ſo as he doe appeare within his due time.

	l.	s.	d.
For the Copie of the Bill, for euery ſheete, *inde.*	0	1	0

It the Defendant cannot appeare perſonally, by reaſon of Impotency, &c. Vpon *Affedauit* made in that behalfe, hee may haue a *Dedimus poteſtatem*, to take his Anſwer in the Country, as is vſed in *Chancerie.*

	l.	s.	d.
Fee for the *Affedauit* herein,	0	2	4
The Copy thereof,	0	2	0
The *Non* appearance of euery ſeuerall Defendant ſerued to apeare and hauing this benefit (*payable in Court.*)	0	1	4
For euery the like for the ſame, to his Attourney *per* piece (*euery name.*)	0	1	8
For engroſſing of the Bill, for euery ſheete, *inde.* (*euery ſheete.*)	0	0	8
The Warrant.	0	3	4
The Writ and Seale	0	7	2

If the Oath to juſtifie the impotencie in the ſaid caſe cannot bee made; Then the ſaid *Dedimus Poteſtatem*, muſt be obtained, of, and from the Lord *Keeper*, and by ſuite vnto him to bee made in that behalfe.

	l.	s.	d.
Fee for the Entry of the Order,	0	3	0
For the other Fees.	——— *vt supra.*		

If neither the *Affedauit* of impotency can bee made; Nor the Lord *Keepers* allowance can bee had herein, then meanes must bee vsed to procure the Plaintiffes consent, that the Answere may bee made by *Dedimus Potestatem*, in the Countrey; which if it be also denyed, there is no remedy, but the Answere must bee made here personally vnder the perill aforesaid.

After a Commission of *Dedimus potestatem* is gone forth to take the Answere in the Countrey, It must bee returned, after it is executed, by Oath; vnlesse one of the Commissioners himselfe bring it.

	l.	s.	d.
Fee for the Oath in this case,	0	0	4
For the entry thereof,	0	1	0

Where note, that the deliuery made by a Commissioner, saueth both the Oath, and the charges of the Oath also.

And if the Defendant in this case doe not answere in time: Then the Plaintiffe may make out an Attachment, (*vt supra.*)

	l.	s.	d.
For the Warrant, *inde*,	0	3	4
For the Writ,	0	2	6

And vpon the Attachment in this case, the Plaintiffe may proceede to a Commission of Rebellion. (*vt supra.*) And

And if a *Dedimus Poteſtatem* bee granted to the Defendant to make anſwere in the Countrey; The Plaintiffe may, if hee pleaſe ioyne with him therein, and miniſter Interrogatories for the Defendant to anſwere vnto likewiſe.

If the Plaintiffe doe ioyne with the Defendant in *Dedimus poteſtatem*; And the *Dedimus poteſtatem* is obteined by *Affidauit* made (*vt ſupra.*) The Plaintiffe muſt then, and in ſuch caſe pay to the Defendant the one halfe of the charge of the Writ and Seale, &c.

	l.	s.	d.
Fee for the Warrant for the Writ,	0	3	0
The Writ,	0	7	2

The Plaintiffe hath foure dayes after the Defendant hath deliuered in his Anſwere, to put in his Interrogatories, whereupon the Defendant is to be examined.

Fee for the Copy of the Anſwere for euery ſheete, *inde*	0	1	0

And if the Defendant ſo pleaſe, he may omit the benefit of putting in of any ſuch Interrogatories at all: For hee is not bounden therevnto.

And if the Defendant doe depart out of Towne, before he be examined vpon Interrogatories (as aforeſaid.)

Then the Plaintiffe may haue an Attachment againſt the Defendant for ſuch departure.

	l.	s.	d.
Fee for the Warrant, *inde*,	0	3	4
For the Certificate of the Examiners, to testifie that the Defendant is not examined.	0	1	6
For the Writ.	0	2	8

And vpon the said Attachment, the Plaintiffe may proceed to the Commission of Rebellion against the Defendant, if he will in manner (as aforesaid.)

If the Interrogatories be put in by the Plaintiffe, The Defendant may be examined thereupon.

	l.	s.	d.
Fee for the examination	0	2	4
For admittance to Attourney.	0	2	4

But if no Interrogatories bee put in by the Plaintiffe, within the time limited (as aforesayd:) Then after the time (which is foure dayes) expired, the Defendant may safely depart out of Towne.

Prouided, that he the Defendant doe first obtaine from the Examiners, a Certificate to testifie that the Plaintiffe hath not yet put in any Interrogatories against him.

Fee for the Certificate —— *vt supra.*

For his admittance to Attourney,---- *vt supra.*

And if the Defendant doe *Demurre* to the Bill of the Plaintiffe: Then the Defendant shall not need to put in Sureties thereupon, but onely to

to moue the Coourt, that his ſaid *Demurrer* may be referred to the examination, and Conſideration of ſome of his Maieſties Iuſtices of either Bench, or to ſome of his Maieſties Counſaile learned in the Law: and that they may certifie backe to the Court, whether the ſaid *Demurrer* be ſufficient or no.

	l.	s.	d.
For the entry of the Order here vpon.	0	3	0

And if the Iuſtices, or his maieſties Counſell in the Law, to whom the ſaid *Demurrer* is ſo referred, and committed, doe vpon Examination and Conſideration thereof, certifie to the Court, that they finde the ſaid *Demurrer* to bee inſufficient: Then thereupon the Defendant is to pay to the Plaintiffe for his extraordinary Coſts in this behalfe, forty ſhillings.

And the Plaintiffe in this caſe may likewiſe haue a *Sub Pœna* againſt the Defendant to make a better Anſwere.

	l.	s.	d.
Fee for the Entry and Copy of the ſaid Certificate.	0	2	0
The Warrant for the Writ to cal the Defendant to make a better anſwere,	0	2	0
The Writ and Seale,	0	2	6

And if the Defendant doe not pay to the Plaintiffe the ſaid ſumme of forty ſhillings ſo awarded for the inſufficiency of the *Demurrer*, and that vpon the returne of the *Sub pœna* to

make a better Answere; Then the Plaintiffe may haue a *Sub pœnâ ad soluendum*, in that behalfe against him.

	l.	s.	d.
Fee for the Warrant, *inde*,	0	2	0
For the Writ and Seale,	0	2	6

And if the Defendant doe not pay the Plaintiffe vpon that *Sub pœnâ* being serued vpon him, And Oath thereof bee made: Then the Plaintiffe may haue an Attachment against the Defendant for his said Costs so awarded, and proceede thereupon: —— *vt supra.*

Fees *inde*, —— *vt supra.*

If *Affedauit* bee made that the Defendant is so aged or impotent, that hee cannot come to answere or *Demurre* here in person; his *Demurrer* will bee accepted, as though hee were personally present at the doing thereof.

And then if the Defendant doe *Demurre* to one part of the Bill, and answere to another part of it; The Defendant is to answere to Interrogatories touching the part of the Bill, vnto which he so answered.

And if vpon examination had of the Defendants *Demurrer*; The Iustices or such of his Maiesties Counsaile learned in the Law, vnto whom the same was referred, doe certifie to the Court that they finde the *Demurrer* to bee sufficient; Then, and thereupon the Plaintiffes Bill is to be ouerthrowne, And the Defendant shall be

be dismissed out of the Court, with his costs in this behalfe sustained, to be allowed vnto him.

	l.	s.	d.
Fee for the entry and Copy of the said Certificate;	0	1	0
For the dismission,	0	2	0
To his Attourney for his Bill of Costs.	0	6	8
To the Clerkes for entry,	0	2	6
For the Warrant to lead his Writ *ad soluendum*,	0	2	0
For the Writ and Seale,	0	2	6

Where note, that if neither the Plaintiffe, nor the Defendant doth moue the Court to haue the *Demurrer* to bee referred in manner as aforesaid; there the cause proceedeth no further, but dyeth.

And note, that oftentimes the sufficiency of answere made to Interrogatories, is referred by the Court to Committees: But howsoeuer the Certificate is made thereupon, for, or against either party, no dismission doth follow thereupon; Onely some small costs is awarded to the partie, on whose side the Certificate is made: for the Recouery of which costs, they may take such course and order, as is to be taken in case of a *Demurrer*.

Fees *inde*. —— — *vt supra*.

VVhen the Defendant hath put in a sufficient Answere to the Plaintiffes Bill, and the Defendant is likewise examined vpon Interrogatories,

(as

(as aforesaid:) Then the Plaintiffe may Reply, and take forth a Writ *ad Reiungendum* against the Defendant which must bee serued vpon him for that purpose.

Fee for the Coppy of the Answer and examination *super interr.* } o-*vt supra.*

	l.	s.	d.
The Warrant to lead the Writ,	o	2	o
The Writ and Seale,	o	2	6

Where note that the Plaintiffe is not compellable to reply, before such time as all the Defendants haue made answere.

And if the Defendant answereth generally, *Not guilty*. Then there shall need no replication to bee made at all; because they be at issue vpon the same Plea; And then the Plaintiffe may take out his Writ *adiungendum in Commissione*, to make the Defendant ioyne with him in Commission.

Fees, *inde* —— —— *vt supra.*

And if the Plaintiffe doe Reply before such time as the Defendant is examined vpon Interrogatories; hee looseth the benefit of examining the Defendant in that kind.

And if the Plaintiffe doe not reply, the next day after the daies expired, which are giuen to him in warning to make his Replication: the Defendant may in such case, and vpon such default of the Plaintiffe, moue to haue the cause dismissed, for want of effectuall prosecution.

Fee

	l.	s.	d.
Fee for the Entry of the Order,	0	3	0
For the Rest, —— *vt supra*, for *Demurrer*.			

When the Plaintiffe hath ſerued the Writ *ad Reiungendum* vpon the Defendant, and *Affidauit* bee thereof made, He may take forth his Commiſſion to examine Witneſſes.

This Commiſſion is to bee directed vnto ſuch Commiſſioners, as the Plaintiffe and Defendant ſhall agree vpon.

	l.	s.	d.
Fee for the *Affidauit* made for the ſeruing of the Writ ad *Reiungendum*,	0	2	4
The Warrant,	0	3	10
The Writ Com.	0	7	2

If the Defendant doe refuſe to ioyne with the Plaintiffe in the Commiſſion: Then the Plaintiffe may ſue out the Commiſſion himſelfe alone on his party, and direct it vnto foure Iuſtices of the Peace, and execute it at his pleaſure.

Otherwiſe the Plaintiffe may (if he will) examine his Witneſſes here in Court.

When the Writ *ad Reiungendum* is ſerued vpon the Defendant, he need not to enter any appearance thereupon, but onely to Reioyne to the Replication.

Fee *inde*. —— *vt ſupra*.

And if the Defendant doe ioyne with the Plaintiffe in Commiſſion: Then the Defendant

is to pay the one halfe of the Fee of the Commission:

Fee *inde*, ____ ____ o. *vt supra*. o

If the Plaintiffe doe delay the suing forth of any Commission to examine Witnesses: Then the Defendant, vpon Oath made that hee was serued to reioyne, may himselfe alone take forth a Commission to examine on his party.

Fee *inde*, ____ *vt supra*.

Or otherwise, the Defendant for such delay of the Plaintiffe, may the next Terme following moue to haue the Cause dismissed.

When the Commission is executed and returned, the Plaintiffe or Defendant may assigne and giue to each other a day to shew cause why Publication should not bee granted in this matter, &c.

	l.	s.	d.
Fee for Returne of the Commission,	o	o	4
The Rule of Publication,	o	1	o

After Assignment to Publication & the dayes so assigned be expired if nothing be said to the contrary, The Publication may be entred.

	l.	s.	d.
For the entry of Publication,	o	1	o

Note that nothing stayeth Publication, but it must be granted vpon ____

Order,

Order,
Affedavit,
Certificate,
or
Confent.

After publication is so had and procured (as aforesaid) the Cause standeth then at the highest. For untill the Hearing, nothing more is to be done here.

	l.	s.	d.
For the entring of the Cause then into the common Booke of Hearing.	0	1	0

Lastly, you shall observe that nothing altereth the aforesaid grounded rules of this most Honourable Court, but only

Order
Affedavit
Certificate
or
Consent

Which procured upon some extraordinary accidents, doe sometimes change the prescribed custome of proceeding and rule of the Court.

The forme of proceeding Ore tenus *in the* Starre-Chamber *followeth.*

IF the Delinquent hath done or ſpoken any thing worthy the Hearing and cenſure of this honourable Court. And be queſtioned for the ſame, and thereupon doth confeſſe the fact or words, and ſubſcribeth his hand to the ſame Confeſſion made in writing before the Lord *Chancellour* or Lord *Keeper*, or any the Lords, Iudges, or the Kings Counſaile; And doth, when he is called to this Barre to anſwer it, likewiſe confeſſe the ſame to be true, and acknowledgeth his hand ſubſcribed to the confeſſion made (as aforeſaid:) Then, and in ſuch caſe the Court vſeth to proceed to the Sentence and Cenſure in the matter.

It hath not beene ſeene formerly, That any but the Lord *Chancellor* or Lord *Keeper*, the Iudges, or the Kings Counſayle haue taken any ſuch Examinations or Confeſſions ſo ſubſcribed vnder the Delinquents hand (as aforeſaid.)

Neuertheleſſe, if any other who hath authoritie in this behalfe, ſhall take any ſuch Examination & ſubſcription; And the party ſo examined and ſubſcribing, ſhall at the Barre confeſſe the matter,

matter and acknowledge the hand; The Court may proceed to sentence, if [illegible] upon.

For the use of this Examination and Confession and acknowledgement thereof at the Barre, when the Court doth examine (him as the custome is) whether that which is confessed in writing be true, or not.

And if the Lord *Chancellor* or Lord *Keeper*, the Iudges, the King's Counsailors, or any other, shall take any such Examination and Confession; Yet, if the partie at the Barre shall eyther deny his hand thereunto subscribed, or the matter therein contained to be true; Then the Court doth not vse to proceed to Sentence or Censure him.

So consequently the strength of the examination seemeth not to stand in the partie who taketh it, if he be of authoritie, but in the parties Re-examining the same at the Barre, and the Recognization thereof.

And so I conclude the practice of the Court of *Starre-Chamber*.

THE EXCHEQVER.

THe *Exchequer* hath three seuerall places of proceeding, according to the three differing manner of busines belonging vnto it on the pleading: (*viz.*)

The *Chequer* Barre.
The *Chequer* Chamber.
The Court of *Pleas*.

For the *Exchequer* Chamber, It is the English Court of place where the proceedings are held by English Bill and answere, And the proceeding thereof is very much like to that of the *Chancerie*, (as is said before) and therefore I meane not to insist any further vpon it.

For the Court of *Pleas*, It is the very Imitation of the Courts of Common Law in the Hall, and therefore I would bee loth to boyle the same meate twice ouer to your Trencher: but

but reserue my selfe for the *Chequer* Barre especially, and the Receipt side.

The Processe and Proceedings of the *Chequer* Barre are distributed betweene the two *Remembrancers* of this Court, viz. the King's *Remembrancer*, and the Lord *Treasurer's Remembrancer*.

And what doth properly appertaine to the one, and what to the other, I haue at large set downe in my *Direction* for search of Records, according to the small dooms and Orders of Sir *Richard Lyster* Lord chiefe Baron in the time of King *Henry* the eighth.

And by the view of the particular matters and businesses therein appropriated to respectiuely, you may the better iudge of the proceeding to be held vpon them: the rather for that euen here at the Barre side, they doe in most things follow the practice of the common Law also.

Therefore I shall bend my selfe to set forth the practice of those things which are not presidented in the other Common Law Courts, at all, being matters onely proper to this, &c. with this small difference which is betweene this Court and those of the Common Law below Staires, in point of Appearance at the beginning of a Suite, &c.

The

The order of Appearance in the Exchequer.

IN the Exchequer the appearance may bee made by Attourney; so that there be sureties laid in to answere the matter.

This Bayle must be alwayes taken before a Baron in the Court, and not in his Chamber, as is vsed in other Courts.

The Processe is a *Sub pœna*; And if the Defendant doe appeare thereupon by his Attourney, his Sureties must be bound by Recognizance (as aforesaid) with condition that hee shall render, &c. if the Defendant be condemned.

If the Plaintife be pleased, The hand of the Defendant may be sufficient in this case, whether he appeareth personally or no.

And except the matter bee the greater, one Surety may suffice, &c.

The Charge of Appearance upon a Sub pœna in the Exchequer.

	l.	s.	d.
IN primis the Appearance.	0	0	8
The Recognizance.	0	0	8
The Attourneyes Fee,	0	3	4

The

	l.	s.	d.
The Copie of the information at eight pence the sheete.	0	0	8 *le sheete.*
For entring of the Bayle, if it be in generall issue.	0	5	0
If in a speciall issue, then for euery halfe Roll,	0	16	4
To a Counsailor for drawing of the Plea in Barre at the leaste.	0	6	8 *if it will satisfie.*
The *Subpœna* it selfe and Seale whereupon the appearance is,	0	2	7

The charge of an Inrolement in the Exchequer.

	l.	s.	d.
Inprimis, to the Baron before whom the acknowledgement is made.	0	6	8
To the Master of the Office for his hand,	0	6	4
For euery Roll,	0	3	4
To the Attourney	0	3	4
Summa Total inde.	0	19	0

The charge of the Sheriffes Account in the Exchequer.

	l.	s.	d.
Inprimis, for the *Tales* vpon payment of proffers.	0	2	8
For the entry of the same *Tales*.	1	1	4
For the *Diem extremum clausit* after the Death of the Sheriffe whereby execution is to be returned, *Sur. accompt.*	0	13	4
For the Warrant of Attourney,	0	1	0
The entry thereof.	0	0	8
The Vshers Fees, & poore mans Box.	0	3	4
The Controller of the Pipe	0	16	8
To him more in regard,	0	3	4
To his Clerke for Summons and in regard,	0	5	0
To the Clerke of the Pipe in part of his Fee.	1	0	0
To the Lord Treasurers Remembrancer.	0	13	4
To the Forreigne Opposer for changing of the greene Wax, and making of the scrowle thereof.	1	6	8
To him for allowance of the wages for the Iustices of the Peace,	0	18	0

To

To the Clerke of the Eſtrats for portage of Bookes, } *as you can agree.*

To the vnder Clerke of the *Pipe* for the like, } *Similiter.*

The Preſident for the forreigne Account, } *Quere*

Fee in regard of the Iuſtices of Aſſize their Dyet, } l. 10 — s. 0 — d. 0

To the Attourney for the Entry thereof, and the other Petitions, --- } 2 — 0 — 0

To the ſaid Attourney for his ordinary Fee for the whole yeare, *ad recipiendum, mandat, &c.* } 1 — 6 — 8

To him in regard for euery Terme during the Account, } l. 0 — s. 3 — d. 4

To the Clerke in regard, 0 — 10 — 0

The Copie of the Sheriffes Seiſures, according to the number of them, } *According to the number of them.*

Le. Seiſure old, — 0 — 1 — 0

Le. Seiſure new, — 0 — 2 — 0

To the Clerke in regard of the ſame, } 0 — 3 — 4

To the Remembrancers Office for euery thereof, and for ioyning the *Tales* of proffers, } 0 — 3 — 4

On the Lord Treaſurers Remembrancers ſide for the like. } *Similiter.*

	l.	s.	d.
For allowance of the same *Tales* of payments of money in the Receipt of the Exchequer.	0	1	4
For the ioyning of the same,	0	0	8
For allowance of the same,	0	1	0
For euery day that is giuen to the Sheriffe for respect of his Accounts,	0	6	8
For entry thereof,	0	2	0
To the Vsher for Proclamation when the Sheriffe is cast out of the Court,	0	2	6
For the *Quietus est*, the making and allowing of the same.	1	0	0
For the Baron his Fee for the taking and allowing of the forreine accounts,	0	6	8
To the same Baron of examining of the Sheriffes Schedule,	0	6	8

The ordinary charge for passing of an Account.

Inprimis, for deliuery and receipt of three Certificates,	0	1	0
For deliuery of the Kings part of the Books of Extent to the Auditor,	0	0	4
To the Auditors man for a bag,	0	0	6

For

	l.	s.	d.
For a Warrant of Attourney.	0	0	8
To the Teller for receiuing of the mony, and for making a Bill thereof,	0	0	4
To the Auditors man for allowing of the Certificates,	0	1	0
To the Auditors man for engroffing of the Accounts.	0	4	0
To the Barons man for receiuing & allowing of the Warrants of Attourney,	0	2	0
For entring of the Account on the Kings Remembrancers fide,	0	1	0
For the like entry with Maſter *Smith*,	0	1	0
For ioyning of their two *Tales*	0	0	8
For entring of the *Quietus eſt.*	0	2	0
For the *Quietus eſt.*	0	3	4
The Attourneyes Fee.	0	3	4
Summe Total. is about,	1	1	8

And thus much for the *Exchequer.*

The Sheriffes Fees doe next offer themſelues in manner following.

FEES BELONGING TO SHERIFFES.

	l.	s.	d.
Inprimis, for the returne of euery *Cepi Corpus*,	0	0	4
For the returne of a *Nihil*, or a *Non est inuentus*.	0	0	4
For returne of a Proclamation,	0	1	0
For the returne of a *Venire facias*.	0	1	0
For the return of a *Habeas Corpor.* or *Distringas*.	0	2	4
For euery name returned vtlawed,	0	0	4
For making of a Warrant vpon a Writ, if it be directed to the ordinary Bayliffe, then for euery name	0	2	0
If to speciall Bayliffe, or Bayliffes, then for euery name,	0	2	0
For the Arrest of euery Defendant, *Payable by the Plaintiffe.*	0	1	0

For

	l.	s.	d.
For making the Bond wherein the Defendant is bound with two Sureties for his appearance at the return of the Writ, and in the Court named in the Writ,	0	0	4
For a Copy of the Warrant vpon the Writ.	0	0	4
For a *Repleuin* or *Replevit* in the Shire.	0	2	0
For the Returne of a *Recordare*,	0	0	4
For the returne of an *Accedas ad Curiam*,	0	2	2
For the returne of a *Distringas nuper vic.*	0	2	0
For the allowance of a *Supersedeas*, if it bee after the returne of the Exigent.	0	1	0

For the Executing of a VVrit to enquire of VVaste:
Also to enquire of Dammages.
Also to execute a Statute;
Or *habere facias sesinam.*
A Writ of Right:
De partione faciend.
For remouing the Ouer-charge of Common of Pasture.
Enquiry vpon an *Elegit.*
Writ of forcible Entry, or holding with force, whereupon the partie amoued is to be restored to his possession.

The Sheriffe hath for these, as you can agree with him.

Exe-

Execution of a Iudgement, *super br. de dote.* And the like. }

For the ſeruing of an execution, there is a generall Rule, that hee ſhould be allowed according to the rate thereof in poundage, } *See the Statute of* Eliz.

For the returning of a *Mandani ballino*, } l. s. d. 0 — 0 — 4

But vnleſſe I had beene thrice an Vnder-Sheriffe, it were impoſsible for mee to ſet downe all his Fees truely and honeſtly: Therefore I leaue the reſt to offer themſelues vnto you, wiſhing it to bee euer in *meliorem partem*: and for your benefit and credit.

FEES

FEES BELONGING TO THE CLERKE of the PEACE and his Office *now follow.*

FIrſt, it is to bee vnderſtood, that heretofore the *Clerke* of the *Peace*, beeing onely Clerke vnder and vnto the *Cuſtos Rotulorum* of the County, was wont to haue wages yearely of the ſaid *Cuſtos* for his ſeruice.

The Clerke of the *Peace* is to make out all the VVrits or warning, of all ſuch perſons as are to giue attendance at the Seſſions of the Peace, to be kept at ſuch place, as the Iuſtices doe appoint and agree vpon.

And at the place and time appointed for the Seſſions, The Clerke doth firſt read the Commiſſion of the Iuſtices, And then the Sheriffe of the Shire doth returne foure and twenty of euery hundred in the County, of which there

is one Grand Iury for the body of the Shire drawne forth; and this is called the great Enqueſt.

And when the great Enqueſt is ſworne, One of the Iuſtices giueth the charge vnto them, whereupon they ſhall enquire.

After the charge giuen and ended, They doe depart from the Barre, to ſome roome in ſome houſe neare thereabouts, where they may bee conueniently together.

And to them then and there are brought all Bills of Felony, Treſpaſſe, Ryots, or other miſdemeanors & offences giuen them in charge to enquire of.

And if the great Enqueſt finde any of the ſayd Bills of preſentments to be true, And the parties themſelues who are therein found faulty or guilty, be abſent, ſo that they cannot be quitted, or puniſhed for the preſent: Then, & in ſuch caſe, The Clerke of the Peace to make forth againſt them three *Capias's*; and an Exigent to come in, to trauerſe the preſentment, or to ſubiect themſelues to the Cenſure and Doome of the Court, &c.

VVhen the great Enqueſt finde the Bill true; they write on the Back-ſide thereof, *Billa vera*; But in caſe they cannot finde it true for want of ſufficient Euidence, Then they write on the backe ſide thereof, *Ignoramus*.

If it be found, then the Clerke is to make forth

forth Proceſſe (as aforeſaid;) but if the Iury finde it not, then farther proceeding is not to bee had thereupon.

If the party ſo indicted be preſent, if it be in caſe of Felony, &c. hee may bee forthwith arraigned before the ſayd Iuſtices, who are to proceed vpon him farther, as the Law in ſuch caſe prouideth.

If hee be not preſent, nor attached, but at libertie till he be vtlawed; Then after ſuch *Vtlary*, euery Acceſſary to the fellony, may be arraigned and tryed, but not before.

For other offences of inferiour nature, the party indicted is to come in, and to make his Fine at the diſcretion of the Iuſtices, or two of them at the leaſt, whereto one muſt bee of the *Quorum*, vnleſſe that before that time the party can get the Indictment to be remoued by *Certiorare* into the *Kings Bench*.

And if it bee ſo remoued thither, Then the partie muſt either there trauerſe it *cum effectu*, or elſe compound with the Iuſtices of the ſaid Court for the ſame.

	l.	s.	d.
The Fees which euery perſon ſo indicted is to pay at the Seſſions,	0	2	6
VVhereof to the Cryer and Marſhall,	0	0	6
And to the Clerke of the Peace,	0	2	0

	l.	s.	d.
And in case where a forcible Entry, or forcible holding is found before the Iustices, or some of them, The *Clerk* of the Peace is to make a Writ of Restitution, directed to the Sheriffe, to put the party amoued into the possession: For which, his Fee is	0	6	8
Item, for euery Warrant of the Peace	0	2	0
Item, for euery Warrant of good Abearing,	0	2	0
Item, of euery *Supersedeas*.	0	2	0
Item, of euery person indicted of Felony, and thereof acquitted.	0	2	8
Item, for euery person acquitted vpon other Bills.	0	2	8
Item, vpon remouing of euery Indictment by *Certiorare* into the *Kings Bench*: For the allowance of the sayd Writ	0	6	8
Item, for euery Writ at the suite of the partie vpon a Trauerse tendred,	0	2	0

Some other few Fees there bee vpon matter within the Compasse of the Commission of the Peace, which time may enable me to adde, But for the other Fees which the *Clerke* of the Peace

Peace doth take in ciuill matters; as for Licences of Malsters, Hyglers, &c. because hee is onely *Clericus Clerici Rotulorum Pacis*, I vnderstand not how he claimes those Fees in ciuill causes.

And for the Licence and Bond of Victulars giuen vpon Licence.

The Fees are vncertaine; For in some Counties the whole charges stands the Victualler in 6.s. in some 7.s. and in some 8.s. *Vijs & Modis per annum* yeerely. And the Victular Licensed *de nouo*, in some places payes more then the older Victualler. —— } *Fee vncertaine.*

Note withall, neuertheleſſe that the Victualler is the best Candle-rent Tenant that the Clerke of the Peace hath; And therefore I dare trust them together, for I know not where I can better leaue him:

The Clerke of the Assize holds the next place for taking of Fees, (*viz.*)

CLERKE OF THE ASSISES FEES.

(viz.)

INprimis pro Quarela.	0 — 2 — 0
Item, pro pl. in Barr. seu in Aßiſſ.	0 — 2 — 0
Item, pro capiend. Aſſiſſ. ſuper exit. ex vtraq; parte.	0 — 2 — 0
Item, pro intratione inde in aßiſſ.	0 — 2 — 0
Item pro intratione Non proſ. pro Qucrente.	0 — 2 — 0
Item, pro quolibet bre. ſecundum longitudinem eiuſdem,	ſecundum longitud.
Item, pro quolibet Adior. in com. Barre, prout concordare poteſtis:	As ye can agree.
Item, pro quolibet Adior, ex vtraq; parte, ſi dies dat. ſi vtriq; parti.	0 — 2 — 0
Item, pro quolibet Warrant. Atternat.	0 — 0 — 8
Item, Quer in quolibet Aßiſſ. de Seſin. capt. tertia pars ex tertia parte damnorum,	Ratabiliter.

Feod.

Feod. de Record de Nisi prius,	0	0	6
Item, pro deliberatione eiusdem in Curia.	0	5	0
Item, de Qutr. si Def. cognouerit actionem.	0	2	0
Item, de Def. si Quer. non vult prosequi.	0	2	0
Item, pro qualibet priuat. Verdict.	0	3	3
Vnde Iustic.	0	6	8
Item, de Def. pro indorsis, cuiuslibet. Record & Informac. vbi plit.	0	4	4
Item, pro quolibet Warrant Attor.	0	0	8

And thus farre my present Collations extend for the present, touching our Clerks of the Assizes their Fees.

The Charge of prouing of a Will followeth.

THE

THE CHARGE OF PROVING OF A WILL in the *Arches*, the *Inuentorie being forty pounds and not aboue.*

	l.	s.	d.
Inprimis, the Proctors Fee and *Prox*, for prouing the Will,	0	5	8
Item, the Seale, and *Probate* of the Will.	0	1	8
Item, for Registring the same,	0	1	6
Item, for engrossing of the Will, if it be but short.	0	1	0
Item, for engrossing of the Inuentorie, and exhibiting of the same,	0	3	4
Item, for the Registers hand to it,	0	1	0
Summe Totall.	0	14	2

Generally for Probate of VVils and the charge thereof, according to the rate of the Inuentorie, see the Statute in that case, vnder the Title especially prouided:

If the Officers whom it concernes, can bee perswaded that it was prouided for them: *hinc oritur quæst.o.*

COVRT

COVRT OF WARDS.

Instructions to sue forth a Lunaticke.

FIRST, you are to make suite to the Master of the Court of Wards for the custody of him whom you desire to haue; not without much care, that you vse a friend worthy your trust in this behalfe.

When you haue a promise there, you must preferre your petition to him that is Master, desiring that he will be pleased to grant you a Commission for the finding of the same Lunaticke: which Commission is to bee directed to the Feodary of the Country where the Lunaticke abideth, and two others at the least, whom it shall please the said Master to appoynt.

When you haue order for the Commission (as aforesaid) Then you are to goe to his Maie-

ieſties Attourney of the Court of Wards with the order, And hee will thereupon make you a Warrant for the drawing vp of your ſaid Commiſſion.

This Warrant you muſt carry to the proper Clerke, who is to draw your Commiſſion, which hee vpon ſight of the Warrant will accordingly doe.

	l.	s.	d.
Fee to the ſaid Clerke for the ſaid Commiſſion,	o	16	o

Note, that when you procure your order from the Maſter, you muſt haue a ſpeciall care to ſee that his Secretary doe Regiſter your name for the ſaid Grant, in the Booke of Remembrances of this nature, leſt it ſhould be forgotten, And withall it will not be amiſſe, that you vſe meanes to make the ſaid Secretary mindfull of you in your abſence.

When the ſaid Commiſſion is executed, and the Office found thereupon, The ſame muſt bee deliuered into the Court of Wards, And hee that deliuereth it, muſt be ſworne vpon the deliuery, that hee receiued it from the Commiſſioners and that in ſuch manner as he doth deliuer it, being vnaltered in any poynt.

	l.	s.	d.
Fee for the ſaid Oath.	o	o	4

Then it is to be deliuered into the Office at the *Temple*, from whence it is to be ſent ouer to the *Petty-Bagge*, where the Clerke will make you

you out a Copy of the ſame Commiſſion, and Inquiſition found vpon it, which you muſt carry backe to the Office of the Court of Wards, And then the chiefe Officer there, or the Auditor of the Court will make your Schedule by and out of the ſame Office or Inquiſition ſo found.

To this Schedule you are to get the hand of the Maſter of the Court, And that being obtained, you are to bring the ſaid Schedule ſo ſigned to the Officer, who is to make your Indentures of bargaine thereupon, which he, vpon ſight thereof, will performe accordingly.

Then you are to carry the ſaid Indentures to the Maſter of the Court, who ſhall ſet his hand to one part of the ſame, and you that haue the Grant of the ſaid Lunaticke, muſt ſet your hand and ſeale to the other part, And the part which you are to haue, muſt bee hereupon ſealed with the ſeale of the Court.

But before you haue your part, you muſt ſeale to the Kings part, And muſt alſo finde two Sureties to be bound with you, that you ſhall truely accountonce in euery yeare to the Auditor of the Court for the profits of the liuing of the ſayd Lunaticke, And to anſwere the ſtocke and ſtate of the Lunaticke, if hee ſhall chance to dye, or recouer his former health.

And if the parties who ſhould be bound with you, be not in towne: then you muſt haue a

Commission directed to foure such in the Countrey as you will nominate, to see and certifie the signing and sealing of your said sureties to the said Bond.

This Commission and Bond must be returned into the Court of Wards who deliuers it ouer to the proper Clerke or Officer; whereupon you shall haue your part vnder the hand of the Master of the Court, and the Seale of the said Court.

Then must you enroll your part of the said Indenture, so signed and sealed in the Auditors Office: And so you haue made an end, &c.

And

You may conceiue how seuerall Fees doe arise vpon seuerall passage aforelayd.

Instructions to passe a Ward.

In primis, you must make meanes for the obtaining of the Ward, as in case of a Lunaticke aforesaid.

When you haue got the promise and order for it from the master of the Court of Wards, you are to goe to the Kings Attourney of the said Court, and vse meanes vnto him for a Commission to enquire and finde the Ward, and a Tenure for the King: whereupon you may haue a Warrant from him to leade such a Commission.

When

When you haue that Warrant, and thereupon your Commission, you must get that Commission, to be by the proper Clerke by whom it doth appertaine, directed to the Feodary of the County, and two such others as you shall nominate and appoint.

When the Commission is sped and executed, and the Tenure found for the King, which doth consequently proue the Ward, you are to returne this Commission into the *Petty Bagge*, and there to take a Copy of it, which you are to deliuer to the Clerke to whom it belongs in the Office of the Court of Wards; and hereupon he will make you forth vpon sight thereof a Schedule of the value of the Land.

Then you must carry the Schedule to the Secretary of the Master of the Court, to the end that he may procure his Masters hand to bee set vnto the same, And the Office for it, with the Wards exhibition, and the names of the party, or parties, which are to haue the Ward: All which must be likewise set downe.

And when you haue the said Schedule so signed, Thereupon the Indentures of the grant are to be drawne vp, to the one part whereof, hee or they that haue the Ward, are to seale and signe; and to the other the Master of the Court doth vse to subscribe his hand, and then the Seale of the Court is affixed thereunto.

Now if the parties who haue the graunt,

haue not also their Seuerall who are to vndertake for them in this behalfe, in Towne, so that they may here enter into Bond with him, with condition of making a true account, and not doing of any waste, &c. Then there must bee a Commission procured to foure such persons as the Grantee or Grantees shall name, to attend and see the sealing and deliuery made by him, or them, and his, or their sureties, which the Commissioners must certifie and send vp vnder their hands and Seales, attested with some Witnesse to the same.

And this must be deliuered into the Office of the said Court, to the proper officer, with and vpon Oath to be made, that it is deliuered in such manner, as it was receiued from the Commissioners themselues, vnaltered, &c.

Thereupon you shall haue a Bill for the receiuing of the exhibition thereof, And according to the Ancient forme of practice, That Bill was then wont to bee signed by the Kings hand, by the procurement of the proper Clerke of the Office.

And when the same is so signed, it does passe through the seuerall Seales, and at the last vnder the Great Seale of *England*, which course, I vnderstand not to bee altered as yet: howsoeuer I may suspect, in regard of the many new Instructions which haue issued of late times, for the ordering of the affaires of this Court, that some

some small difference may intervenden, &c.

When your said Patent is so sealed, you are to deliuer the same and the Schedule of the value of the Land to the Auditor of the Court, who is to see that the same bee forthwith enrolled.

And thereupon the Auditor will giue order to the Feodary of the Shire, to pay you the exhibition yeerely, &c.

The charges of obtaining a Ward, doe follow.

Feod. sequuntur.

	l.	s.	d.
Inprimis, for the Commission to finde the tenure for the King	0	15	1
Item, the Return therefore to the Clerke of the Petty-Bagge,	0	16	0
Item, the Copie of the said Office at eight pence the sheete,	*8 pence the sheete.*		
Item, to the Clerke of the petty Bagge for examining of the same	0	2	0
Item, for making of the Bargaine,	2	0	0
Item, to the said Officers Clerke who maketh the same,	0	14	4
Item, for the making of three Obligations.	0	16	0

Item,

	l.	s.	d.
Item, for the Commission for ſealing of the bargaine & Obligation in the Country, in caſe where the partie Grantee or his Sureties be not in towne to Seale.	0	5	0
Item, to Maſter Attourneyes man for the *Affedauit inde.*	0	0	4
For drawing of the *Schedule*,	0	6	8
For drawing of the Bill to bee ſigned, and getting of the Kings hand vnto it.	0	6	8
To the Clerke for writing of the ſaid Bill,	0	3	4
To him more for entring the ſame into the Booke.	0	2	0
To the Auditor for enrolling of the Patent and *Schedule* of the Land,	0	13	4
To the Clerke for writing of the *Schedule*.	0		

Or rather, as you can agree.

Beſides the Copie of the Office, — *vt ſupra.*

Thus I conclude with this Court, giuing you farther to take in direction, that you examine theſe with the lateſt bookes of inſtructions giuen and publiſhed in Print for the ordering of this Court, whereby you ſhall the better diſcerne the alterations if any be.

FOr the Ideot, I had almoſt forgot him; Howſoeuer the matter is not great: For it is but a fooliſh buſineſſe when all is done.

You

You haue a faire example of a Lunaticke before your eyes, and therefore I shall onely neede to giue you this monitorie instruction touching an Ideot: That you be assured that your selfe is somewhat the wiser man before you goe about to beg him, or else neuer meddle with him at all lest you chance to play at *handy dandy*, which is the Gardian, or which is the foole? and the case alter? *Conuerso, ad Conuersum.* I pray let vs haue no *Platonisme* in the matter: And so much for the Ideot.

THE

THE COVRT OF PARLIAMENT.

I should say somewhat concerning that great Court of Record, The Parliament. But the obiect is so farre remoued from my sight, that I cannot presume a certaine representation, with these weake *species* of eying those mysteries: I make bold by way of explanation, Introduction and Deduction of Sir *Thomas Smiths* Common-wealth to deliuer this onely.

YOu shall vnderstand that all the Law of this Land which is Positiue, doth consist either in { Acts of *Parliament*: or, *Proclamations*.

For the Acts of Parliament, publique or priuate

uate : They be all kept, and remaine in the Cuſtody of the Clerkes of the Parliament ; Howſoeuer (as I ſhewed you in the Search of Record) that they are, or at leaſt ſhould be, in the Chappell of the Rolles likewiſe, and moſt of them are brought ouer thither by *Certiorare, vt ibidem, &c.*

Theſe Acts (as you may read) are made and eſtabliſhed by the King, the Peeres and Commons of the Land, ſo ſtably and ſanctedly, that they be taken for Law.

And that you may the better conceiue, what are the buſineſſes, what the practice, and what conſequently the Records of this Court, I will briefely receiue the very words of Sir *Thomas Smith*, to that point onely :

(*viz.*)

The Parliament Abrogateth old Lawes ; Maketh new, Giueth order for things paſt, and for things hereafter to bee followed ; Changeth right and poſſeſſions of priuate men ; Legitimateth Baſtards ; Eſtabliſheth formes of Religion ; Altereth weights and meaſures ; Giueth forme of Succeſſion to the Crowne ; Decideth of doubtfull Rights and Titles, whereof there is no Law already made ; Appointeth Subſidies, Tailes, Taxes, and Impoſitions ; Giueth moſt free Pardons and Abſolutions ; Reſtoreth in Bloud, and Name ; Naturalizeth Aliens borne out of the Kings Allegeance, and to bee ſhort,

All that euer the people of *Rome* might doe either in *Centuriatis comitijs*, or *Tribunitijs*, the same may bee done by the Parliament of *England*: And so much to the current of his streame.

It is euident, that this is the highest Court of this Realme, because the Authority of it is absolute, and bindeth all manner of persons, For that they are all parties and priuies thereunto, by way of Representation, &c.

Vnto this High Court doe come some, ——— 1. By reason of their Tenure. 2. By vertue of Writ. 3. By vertue of Office.

There doe come by reason of Tenure these: (*viz.*) Archbyshops, Byshops, Abbots, Priors, Dukes, Marquesses, Earles, Barons. } *per Tenure*

These vse to bee summoned to appeare by the space of forty dayes before the Parliament.

They who doe come in by Writ, are these: (*viz.*) Knight of the Shires. Burgesses. Citizens of Cities. Barons of the 5 Ports. The Kings Councell. } *per bre*

There

There doe come hither also by Writ, directed to the seuerall Deanes, and Arch-deacons of this Kingdome: { Two seuerall Proctors of the Clergy, for euery seuerall Deanrie, & Archdeaconrie. } *per bre.*

These Proctors of the Clergie, bee elected by the Clergie also.

And euery of these doe bring with him two Warrants, whereof he keepeth one by himselfe, and the other he enrolleth with the Clerke of the Parliament.

From hence some haue gathered an opinion, That sometimes heretofore the Conuocation house hath beene a member or part of the Parliament house.

But it appeares to bee otherwise in the Case of *Philot*, who being questioned for Heresie, and certaine hereticall words by him spoken, did in his answere alledge, that the words so spoken, were deliuered by him in the Conuocation house, which he held to be a place of freedome and liberty of speech, as being a limme or member of the Parliament House, which assertion was ouer-ruled, And the Conuocation adiudged to be no member of the Parliament House. For though they come by Writ or Summons to the Parliament, yet they haue no power ouer the Laietie, but onely authority to charge the Spiritualtie; Or to make Institutions Prouin-

ciall, as Holy-dayes, Fasting-dayes, And such like; And an Act of Parliament may passe without their consent, priuitie, or interposition in any manner of wise, &c.

There doe come hither, by reason and vertue of Office, these; (*viz.*)

Per Service.

1 The chiefe Cryer of *England.*
2 The chiefe *Vsher.*
3 The *Chancellor.*
4 The *Treasurer.* } of the
5 The *Chamberlain* } *Exchequer.*
6 The *Barons,*
7 The Iustices of either *Bench.*
8 The Steward of *England.*
9 The Porter.
10 Groomes.
11 And all tyed by seruice to be here done, &c.

The Stewards Office hath beene to place the Lords there.

The Porter hath vsed to see that there bee but one doore, at which to goe in and out.

And euery one of the aboue named Officers, hath had his seuerall charge respectiuely.

The

The Allowance of the Knights, Burgesses, and Barons of the Cinque-Ports follow: (viz.)

EVery Knight of the Shire hath vsed to haue the Allowance of a Mark by the day to be payed by the County whereof he is Knight; And this may be leauied by distresse, &c. } *Knight:* ---13 s.--4. d. *per diem.*

Burgesses and Barons of the Cinque Ports. } These haue not vsed to haue *per diem* aboue 10. s. *per* piece for expences.

And for the leauying of this, They haue not vsed to Distreyne, but haue tooke forth a Writ vnder the Great Seale of *England*.

The Writ for the Barons of the Ports, is directed to the Warden.

The Writ for the Burgesses, is directed to the chiefe Magistrates of the Citie or Towne Corporate for which they are Burgesses.

And the bodies for whom the forenamed persons are imployed, must pay the Fine for their default, &c.

As

As,	l.	s.	d.
For the first day wherein the Burgesse shall bee called, and appeares not, his Burrough shall pay	0	100	0
If at the second day the Knight of the Shire doe not appeare, his Shire shall pay	100	0	0
If at the third day a Baron of the Cinque-ports shall not appeare, those of the Cinque ports shall pay	66	6	8
If at the fourth day the *Prælor* of the Clergy doe make default, his Byshop shall pay	100	0	0

And if all the Bishops, and all the Lords Spirituall and Temporall bee absent, having lawfull Summons; Many are of opinion, That the King with his Commonaltie may proceed alone.

The officers in Parliament are. The Speaker. Two Clerkes.

Of which Clerkes one is for the Vpper House, and the other for the Lower House.

The Speaker he doth commend and preferre the Bils exhibited into the Parliament.

The Speaker is vsually appointed and nominated by the King, though accepted by the House: And the Lord *Keeper* or Lord *Chancellour* vseth commonly, *pro forma*, on the first day of a Parliament to speake to the House, that they

they make choyce, and name one to be their Speaker, &c.

The Clerkes are *Custodes Rotularum Parliamenti.*

Touching their Fees: *Non altum sapimus*, &c.

And thus I conclude with the Parliament.

For the other part of the Positiue Law, which does consist in Proclamations: I may onely say what they are, And what is the power of them, according to the common receiued opinion, and farther I intend not any speculation in them.

Proclamations are, where the King and his Councell thinke fit and expedient to publish any thing as a Law.

The effect and power of them, as also the paine of him that breaketh the same, you may reade in diuers Treaties vpon this subiect; In all which I finde this generall consent; That if the Ordinance or Proclamation so made, be in supplement or Declaration of a Law that hath been formerly made and beene good; It is to bee obeyed as a Law, and the breaker thereof is to vndergoe the paine of him that breaketh a Law and his Allegeance, &c. So did those *Prouisions Merton* attaine, and to this day doe hold the name and reputation of the Statute of *Merton*, &c.

Dix.

THE OFFICE OF AN ESCHETOR

is set forth in these few lines following: (viz.)

Regia de mandant brevia Eschætoribus *ista*
Cognoscendo, sibi Qua sint Attinctia donet;
Quantum de se se; Quantum de alijs q; tenebat;
Per qua servitia tenuit; Quantumq; valebant
Terræ: Quoq; die fatis concessit, Et hæres
Quisnam proximior, Cuiusq; ætatis ab ortu.

Note:

Where the value of the Lands to bee enquired of, doe exceed the value of fiue pounds *per annum*, There he must enquire onely by vertue of Writ.

Where the Lands are vnder the value, hee may enquire by vertue of Office, and that Writ.

In euery case the Inquisition found, must bee returned into the *Petty-Bagge*, &c.

THE

THE DVCHY COVRT.

THis a great Court of Record, and it admits Pleas as well Reall as Perſonall, as alſo mixt pleadings, concerning the Lands of the Duchy.

The Iudges heere are the *Chancellor* of the Duchy, aſſiſted by his Maieſties Attourney of the Court, and two Iudges of the Common Law, who aduiſe them for matter of queſtion of Law.

The Rolles and Records of this Courts proceedings, are in the cuſtody of the Clerke of the ſame, to whoſe Office they doe appertaine.

But the Kings Euidence, Leaſes and Graunts of the Duchy Land, as well the Poſeſſions and

Copy-hold, as Fee-simple, and Fee-ferme, are all in the keeping of the Auditors.

The Auditors of the Court are diuers, howsoeuer two are most principall, one whereof for the Lands of the Duchy on this side Trent, and another for the Lands beyond Trent.

There bee diuers Surueyors for the Duchy Lands for the Suruey of them, but they keepe no Record, vnlesse it bee some models of their owne making.

And so I leaue the Duchy, &c.

THE

The Conclvsion.

I Conclude with this humble request made to those who haue power of Reformation, in this crying reigning euill amongst Lawyers, touching the disappointment, and defeate of Clyents causes, for which they are retayned and Feed, and yet often faile to giue attendance in the houre of Tribulation, or to bee neere vnto the Clyent in the day of Visitation (a foule fault in a friend, but a worse in a seruant.)

It may therefore please those in Authority to giue the abuse this proper redresse; (viz) That if any one of them take his Fee to bee of Counsaile, and to attend at such a certaine time and place, and shall notwithstanding faile; The partie who so Feed him, vpon complaint to the Iudge before whom hee

was seeke to bee, may haue his Fee returned a-gaine, with such Damnage as he shall make appeare to the said Iudge that hee hath sustained by the Absence of such Counsaile, And that in case it shall bee prooued that hee absented himselfe in fauour of the Aduerse party, hee may bee fore iudged his practice, and receiue some other fitting and exemplary punishment in that behalfe.

FINIS.

Fœlix quem nulla Cyconia pinsit.

T. P.

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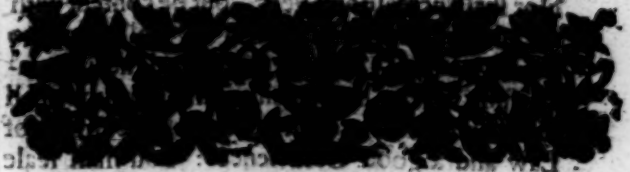
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THE OATH WHICH AN ATTORNEY WAS anciently wont to take vpon his *Admission, being now disused, And instead thereof, the* Oath *of* Allegeance *is onely ministred; howsoever both would doe better.*

YOu shall doe no Falshood, nor cause any to be done in the Court: And if you know of any to bee done, you shall giue knowledge thereof to my Lord chiefe Iustice or some of his Brethren, that it may be reformed: you shall delay no man for Lucre or Malice; Nor

Nor ſhall increaſe any Fees, but be content with [illegible]. You ſhall [illegible] no Frantique Plea. Nor ſhall you [illegible] vnlawfully to the hurt of any man; but you ſhall vſe ſuch onely, as ſhall ſtand with the Order of Law and a good Conſcience: You ſhall ſeale all ſuch Proces as you ſhall ſue out of this Court with the Seale thereof onely, and ſee the Kings Maieſtie, and my Lord chiefe Iuſtice diſcharged for the ſame: You ſhall not wittingly ſue, or procure to bee ſued any falſe Suite, or giue ayde or conſent to the ſame, on paine to bee expulſed the Court for euer: And further, you ſhall beare your ſelfe honeſtly & vprightly in the Office of an Attourney of the Court, according to your beſt Learning and Diſcretion, and as good Conſcience bindeth you. So helpe you God, &c.

Now

I bring the Returnes themſelues home in the Rere of my Booke, as being the onely Leaders of Attournies proceedings, and the practice being paſt before: they offer themſelues in the laſt place, being moſt markable and ready to euery hand, as occaſion may require:

The

The foure Termes with their Returnes.

Hilary Terme begins *January* 23. and ends *February* 12.

Returne Day, or Essoyne Dies.	Exception day.	Returne Breuium.	Appearance dayes.
Octabis Hil. Ian. 23	Ian. 24.	Ian. 25.	Ian. 26.
Quind. Hil. Ian. 27	Ian. 28.	Ian. 29.	Ian. 30.
Craſt. Purif. Feb. 3.	Febr. 4.	Febr. 5.	Febr. 6.
Octab. Purif. Feb. 10.	Febr. 11.	Febr. 12.	Febr. 13.

Eaſter Terme begins *April* 30. and ends *May* 26.

Quind. Paſch. Ap. 30.	May. 1.	May. 2.	May. 3.
Tres Paſc. May. 5.	May. 6.	May. 7.	May. 8.
Menſe. Paſc. May. 12.	May. 13.	May. 14.	May. 15.
Quinq. Paſc. May. 19.	May. 20.	May. 21.	May. 22.
Craſt. Aſcen. May. 23.	May. 24.	May. 25.	May 26.

Trinity Terme begins *June* 13. and ends *July* 2.

Craſt. Trin. June 9.	June 10.	June 11.	June 12.
Octab. Trin. June 16.	June 17.	June 18.	June 19.
Quind. Trin. June 23.	June 24.	June 25.	June 26.
Tres. Trin. June 30.	July 1.	July 2.	July 3.

Michaelmas Terme begins *October* 9. & ends *Nouem.* 28.

Octab. Mich. Octob. 6.	Octob. 7.	Octob. 8.	Octob. 9.
Quind. Mich. Octob. 13.	Octob. 14.	Octob. 15.	Octob. 16.
Tres Mich. Octob. 20.	Octob. 21.	Octob. 22.	Octob. 23.
Menſe Mich. Octob. 27.	Octob. 28.	Octob. 29.	Octob. 30.
Craſt anim. Nouem. 3.	Nouem. 4.	Nouē. 5.	Nouēb. 6.
Craſt. Mart. Nouem. 12.	Nouem. 13.	Nouē. 14.	Nouēb. 15.
Octab. Mart. Nou. 18.	Nouem. 19.	Nouē. 20.	Nouēb. 21.
Quind. Mart. Nou. 25.	Nouem. 26.	Nouē. 27.	Nouēb. 28.

The Law dayes in the Courts of

Arches,	*Consistory,*	
Audience.	*Delegates,*	
Prerogatiue,	*Admiralty.*	

In *Hillary* Terme:	*S. Hillary,*	13	January.
	S. Wolston	19	
	Conuersio S. Pauli.	25	
	S. Scholastic.	10	February.
	S. Valentine	14	
In *Easter* Terme.	*Quind. Pasch.*	28.	April.
	S. Gordian.	10	May.
	Ascension day.	22	
In *Trinitie* Terme.	*Corpus Christi,*	12	June.
	S. Buttolph,	17	
	S. Iohn Baptist.	24	
	S. Paul.	30	
In *Michaelmas* Terme.	*S. Faith,*	6	October.
	S. Edward,	13	
	All Soules,	2	November.
	S. Martin,	11	
	S. Edmund.	20	

And when and where, their seuerall Courts are severally and respectiuely kept, you shall read in the common Almanack at large.

FINIS.

— Cum tonat ocyus Ilex
Sulphure discutitur sacro quam tuq;
(Domusq;.

T. P.

T. P.

(Donnold:

Sulphure dilcutiunt facro quam trag;

— Cruttonat ocyus Ilex

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